

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'B' BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President),
and Aby T. Varkey (Judicial Member)]**

ITA No. 6584/Mum/2019
Assessment year: 2013-14

NSDL e-Governance Infrastructure Ltd.Appellant
*1st Floor, Times Tower Kamala Mills Compound,
Senapati Bapat Marg, Lower Parel, Mumbai 400 013
[PAN: AAACN2082N]*

Vs.

**Assistant Commissioner of Income Tax, Circle 7(2)(2)
Mumbai**Respondent

Appearances by

Ninad Patade for the appellant

Dr. Pratap Narayan Sharma for the respondent

Date of concluding the hearing : 30.06.2022
Date of pronouncement : 27.09.2022

O R D E R

Per Pramod Kumar, VP:

1. By way of this appeal, the assessee appellant has challenged correctness of the order dated 31st July 2019 passed by the learned CIT(A) in the matter of assessment under section 143(3) of the Income Tax Act 1961, for the assessment year 2013-14.

2. Grievances raised by the appellant are as follows:-

1:0 Re.: Additional disallowance made u/s. 14A of the Income-tax Act, 1961 read with Rule 8D of the Income-tax Rules, 1962:

1: 1 The Commissioner of Income-tax (Appeals) has erred in confirming the action of the Assessing Officer in disallowing a further sum of Rs. 76,35,033/- u/s. 14A of the Income-tax Act, 1961 by applying the provisions of Rule 8D(2) (ill) of the Income-tax Rules, 1962.

1: 2 The Appellant submits that considering the facts and circumstances of its case and the law prevailing on the subject no further disallowance u/s. 14A of the Income-tax Act, 1961 is

called for in addition to the amount of Rs. 14,34,717/- suo-moto disallowed by the Appellant and the stand taken by the Assessing Officer in this regard is incorrect, unwarranted and ought to be deleted.

1: 3 The Appellant submits that the Assessing Officer be directed to delete the additional disallowance so made by him and to re-compute its total income and tax thereon accordingly.

2: 0 Re.: General

2:1 The Appellant craves leave to add, alter, amend, substitute and/or modify in any manner whatsoever all or any of the foregoing grounds of appeal at or before the hearing of the appeal.

3. When the appeal came up for hearing, learned counsel for the assessee submitted that the only relief that the assessee is praying for is that while computing the disallowance under section 14A, only those investments, which have yielded exempt income, should be included average value of investments-as is the conclusion arrived at by Special Bench decision in the case of **ACIT vs Vireet Investments Pvt. Ltd. [(2017) 82 taxmann.com 415 (Del SB)]**. The learned Departmental Representative supports the stand of the authorities below that graciously leaves the matter to us.

4. We see merits in the plea of the learned counsel. We, accordingly, direct the Assessing Officer to recomputed the disallowance under section 14A, and, while doing so take into account only exempt income yielding investments for the purpose of computing the average value of investments. The assessee gets the relief accordingly.

5. In the result, the appeal is partly allowed in the terms indicated above. Pronounced in the open court today on the 27th day of September, 2022.

Sd/-
Aby T. Varkey
(Judicial Member)

Sd/-
Pramod Kumar
(Vice President)

Mumbai, dated the 27th day of September, 2022

Copies to: (1) *The appellant* (2) *The respondent*
 (3) *CIT* (4) *CIT(A)*
 (5) *DR* (6) *Guard File*

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By order etc.

*Assistant Registrar/Sr.PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai*