

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, HON'BLE JUDICIAL MEMBER AND  
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA.NO.1903/MUM/2022 (A.Y: 2016-17)**

Voltas Limited Voltas House - A, 4 <sup>th</sup> Floor Dr. Babasaheb Ambedkar Road Chinchpokli, Mumbai - 400 033.  <b>PAN: AAACV2809D</b>	<i>v.</i>	DCIT – Range – 8(3)(1) Room No. 615, 6 <sup>th</sup> Floor Aayakar Bhavan, M.K. Road Mumbai - 400020
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	<b>:</b>	<b>None</b>
<b>Department by</b>	<b>:</b>	<b>Shri Manoj Sinha</b>
<b>Date of Hearing</b>	<b>:</b>	<b>28.09.2022</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>30.09.2022</b>

**ORDER**

**PER AMIT SHUKLA (JM)**

**1.** The aforesaid appeal has been filed by the assessee against order dated 09.06.2022 passed by Learned Commissioner of Income-tax (Appeals)-58, Mumbai (in short 'Ld. CIT(A)') for the quantum of assessment passed under Section 143 r.w.s. 144C of

the Income Tax Act, 1961 (in short 'the Act') for Assessment Year 2016-17.

**2.** In spite of issue of notice, none appeared on behalf of the assessee nor any adjournment was sought. Thus, we proceed to dispose off this appeal with the assistance of Ld. DR.

**3.** Ld. DR brought to our notice the relevant facts on record and vehemently supported the orders of the authorities below.

**4.** In various grounds of appeal, assessee has challenged the disallowance made under Section 14A read with Rule 8D of the Rules of Rs.2,83,34,860/-. The facts in brief *qua* the issue involved are that the assessee-company has received dividend income on investments aggregating to Rs.83,76,70,921/- and has claimed Rs.76,70,83,033/- as exempt dividend income. The dividend income received from overseas companies aggregating to Rs.7,05,87,888/- was offered to tax under the head 'Income from Other Sources'. Before the Assessing Officer, assessee submitted that it has made *suo moto* disallowance of Rs.31,00,000/- under Section 14A of the Act in the computation of total income. Another contention was that for past several years assessee-company had generated substantial amount of fund from sale of

fixed assets and investments apart from business profit earned. It has also made investments in subsidiaries and joint venture companies and also strategic business investments for which it had not borrowed any money for investing in shares or securities and all the investments were through own resource generated from profits and sale of investments. Thus, no interest expenditure can be attributable to the exempt income. Insofar as justification for *suo moto* disallowance, it was contended that investments are attended to by the MIS department, which is primarily responsible for accounts and banking operations, and there is no separate investment department. The overall cost of operating and administrative expenses of MIS department was only Rs.105.95 lacs. Accordingly, assessee had worked out the expenditure of Rs.31 lacs which has been offered to tax stating to be reasonable and fair apportionment of overall MIS department expenses including salary, administrative, operating and other expenses. The working was given in the following manner :-

	<i>Total Expenses</i>	<i>Proportionate Amount offered</i>
- <i>Staff Costs</i>	82.37	26.00
- <i>Operating &amp; Administrative,</i>	23.58	5.00

<i>Establishment/General Expenses</i>	<u>105.95</u> =====	<u>31.00</u> =====
---------------------------------------	------------------------	-----------------------

The Assessing Officer, however, without recording any satisfaction having regard to the accounts maintained by the assessee or looking into the nature of expenses debited and the overall business of the assessee, and observed that Rule 8D has been framed to make the disallowance and accordingly, he made a disallowance of Rs.2,83,34,860/- under Rule 8D(2)(iii). The Ld. CIT(A) has upheld the disallowance made by the Assessing Officer holding that assessee has not given justification as to why only certain percentage of salary has been disallowed.

**5.** After hearing the Ld. DR and on perusal of the relevant finding given in the impugned order, we find that insofar as interest expenditure is concerned, no disallowance has been made, however, the Assessing Officer has made disallowance under Rule 8D(2)(iii) without *prima facie* recording satisfaction whether the expenditure debited to the profit and loss account can be said to be attributable for earning of exempt income. The assessee had specifically pointed out that one particular MIS

department looks into banking and financial accounts and the entire salary, administrative and operating expenditure of the said department was to the tune of Rs.1.06 crores. The assessee based on the reasonable and fair apportionment had offered Rs.31 lacs towards proportionate disallowance. The Assessing Officer nowhere has stated that having regard to the accounts maintained some more disallowance should have been offered looking to the investments made and instead mechanically proceeded to make disallowance under Rule 8D. Now, it is a well-settled law that before invoking the disallowance under Section 14A of the Act, the Assessing Officer has to record his satisfaction having regard to the accounts maintained by the assessee and whether the disallowance offered by the assessee is appropriate or not. Such mechanical disallowance without recording any satisfaction cannot be sustained and accordingly, in absence of any satisfaction recorded by the Assessing Officer, the disallowance made by the Assessing Officer as well as confirmed by the Ld. CIT(A) is directed to be deleted.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 30.09.2022

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai /Dated 30/09/2022

SSL

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file. //True Copy//

BY ORDER

(Asstt.Registrar/Sr. Private Secretary)  
**ITAT, Mumbai**