

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

BEFORE SHRI PRASHANT MAHARISHI, AM

**ITA No. 2085/MUM/2021**

(Assessment Year 2018-19)

M/s. Vaibhav Credit &  
Portfolio Pvt. Ltd.  
Office No. 20, 10<sup>th</sup> Floor,  
Navjivan Commercial  
Premises Co.Op. Society,  
Lamington Road, Mumbai-  
400 008

Vs. DCIT Central Circle 3(1)  
19<sup>th</sup> Floor, Air India Bldg,  
Nariman Point, Mumbai-  
400 021

**(Appellant)**

**(Respondent)**

**PAN No.AAACV9221D**

**Assessee by** : None

**Revenue by** : Shri. Ujjawal Chavan SR AR

**Date of hearing:** 20.09.2022

**Date of pronouncement :** 31.10.2022

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. This appeal is filed by the assessee against the appellate order passed by the Commissioner of income tax (appeal) – 51, Mumbai dated 5/11/2021 for assessment year 2018 – 19 wherein the assessment order dated 27/12/2019 passed by the Dabur to Commissioner of income tax, central circle – 3 (1), Mumbai (the AO) u/s 143 (3) of the income tax act 1961 (the act) wherein disallowance u/s 14 A of the income tax act was made of Rs. 289,025 is confirmed.

02. Following grounds are raised:-



*"1. On the facts and in the circumstances of the case and in law the learned Assessing Officer erred in making addition of ₹ 2,89,025/- to the returned income u/s. 14A rws 8D without appreciating the correct facts of the case and the reason assigned for doing so are wrong and contrary to the provision of Income Tax and rules made there under.*

*2. On the facts and in the circumstances of the case and in law the learned Assessing Officer erred in initiating penalty u/s. 270A(1) of the IT Act 1961 and the reason assigned for doing so are wrong and contrary to the provision of Income Tax Act and rules made there under.*

*3. On the facts and circumstances of the case and in law, learned Assessing Officer erred in charging interest u/s. 234B and 234C of the IT Act and the reason assigned for doing so are wrong and contrary to the provision of Income Tax and rules made there under".*

03. Brief facts of the case shows that assessee is subjected to search u/s 132 of the act on 21/8/2017. The assessee filed return of income on 9/10/2018 declaring total income of ₹ 116,610/-. Notice u/s 143 (2) of the act was issued. It was found that assessee has made investment in shares to the tune of ₹ 19.38 crores as on 31/3/2017 and ₹ 17.50 crores as on 31/3/2018 whereas the dividend income earned by the assessee is ₹ 390,113/-. Assessee

disallowed only a sum of ₹ 4574 in the computation of total income. The total expenditure incurred by the assessee during the year is ₹ 293,599/- the disallowance Under rule 8D was worked out at ₹ 1,934,474/-. However the assessee has debited the expenditure to the extent of ₹ 293,599/- and already disallowed a sum of ₹ 4574/-, the learned AO made the balance disallowance of ₹ 289,025 and accordingly assessment order u/s 143 (3) of the act was passed on 27/12/2019 determining the total income of the assessee at ₹ 405,635/-.

04. In appeal before the learned CIT – A appeal of the assessee failed.
05. Before us despite notice, none appeared on behalf of the assessee on last 4 occasions, therefore, we do not have any other alternative but to dispose of this appeal on the facts and merits of the case as per information available on record.
06. The learned departmental representative vehemently supported the orders of the lower authorities.
07. We have carefully considered the contentions of the learned departmental representative as well as perused the orders of the lower authorities. We find that in the present case the assessee has earned exempt income of ₹ 390,113/-. The assessee disallowed a sum of ₹ 4574 /- which included Demate charges of ₹ 4098/-. The claim of the assessee before the learned CIT – A is that only those



investments which have actually resulted in the exempt income during the year need to be considered for working out disallowance. We find that the claim of the assessee is justified in view of the decision of the honourable Delhi High Court in case of ACB India Ltd versus Asst Commissioner of income tax [2015] 62 taxmann.com 71 (Delhi)/[2015] 235 Taxman 22 (Delhi). In view of this we direct the learned AO to restrict the disallowance by working out it afresh taking into consideration only those investments which have yielded the exempt income during the year.

08. In the result appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 31.10.2022.

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 31.10.2022

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai