

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA Nos. 727, 728 & 695/Bang/2022
Assessment Years : 2009-10, 2011-12 & 2012-13

M/s. Vaishnavi Infrastructure Pvt. Ltd., No. 2/2, Walton Road, Off Vittal Mallya Road, Bangalore – 560 001. PAN: AACCV3531L	Vs.	The Assistant Commissioner of Income Tax, Central Circle – 1(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Shri Gudimella VP Pavan Kumar, JCIT DR

Date of Hearing	:	03-11-2022
Date of Pronouncement	:	30-11-2022

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal is filed by the assessee against separate orders all dated 05/07/2022 passed by Ld.CIT(A)-11, Bangalore for A.Ys. 2009-10, 2011-12 and 2012-13.

2. Brief facts of the case are as under:

2.1 The assessee, a Pvt. Ltd. Co. has filed the above appeal against the order passed u/s 153A r.w.s. 254 r.w.s.143(3) of the I.T. Act for AY 2011-12 wherein a disallowance of Rs.56,89,037/-

has been made U/s. 14A r.w rule 8D(2)(ii) and (iii) of the Income-tax Act, 1961 and a demand of Rs. 29,01,357/- is raised.

2.2 For the year, the assessee filed the return of income on 27.09.2011 vide e-filing acknowledgement No. 294020451270911 declaring an income of Rs. 11,62,01,190/-.

2.3 Thereafter, the assessee had filed the revised return of income electronically on 14-10-2011 vide e-filing acknowledgement No. 307704771141011 declaring an income of Rs.11,37,56,640/-.

2.4 A search u/s. 132 of the Act was conducted in the case of the assessee on 05.07.2011 and accordingly notice u/s. 153A of the Act dated 27.09.2011 was issued and served on the assessee. In response thereto, the assessee had filed return of income u/s.153A of the Act on 31.10.2011 declaring income of Rs.11,37,56,640/-.

2.5 The case was selected for scrutiny and notice u/s. 143(2) and 142(1) were issued and assessment was concluded vide order passed u/s. 153A r.w.s 143(3) dated 24.03.2014 assessing the income at Rs.11,75,79,395/- as against returned income of Rs.11,37,56,640/-. The addition made to returned income is as follows:

Disallowance of Depreciation	-	Rs. 3,55,887/-
Disallowance u/s. 14A r.w.r 8D (Rs. 29,68,522/- + Rs.4,98,346/-)	-	<u>Rs. 34,66,868/-</u>
Total		<u>Rs. 38,22,755/-</u>

2.6 In the course of assessment proceedings u/s 143(3) r.w.s 153A of the Act, the assessee had submitted that its own capital and reserves were more than investments in firms and mutual funds and that the assessee had not incurred any expenditure in

relation to exempt income earned with respect to investment in firms and mutual funds, and hence no disallowance was made u/s. 14A of the Act. However, not accepting the contention of the assessee, interalia, the disallowance u/s 14A was made by the learned Assessing Officer as stated above.

2.7 Against the assessment order, the assessee had preferred an appeal before honourable CIT(A)-11, Bangalore on 03.04.2014 only against disallowance made u/s. 14A r.w.r 8D of the Act of Rs. 34,66,868/-. The assessee did not prefer any appeal for disallowance made of depreciation of Rs. 3,55,887/-.

Ld.CIT(A) confirmed the addition made by Ld.AO for years under consideration.

A perusal of chart filed in the appellate proceedings would show that there was a partial utilization or borrowed funds towards exempt investments

2.8 Against the order of Ld.CIT(A), the assessee filed appeal before this *Tribunal*.

Coordinate Bench of this Tribunal passed consolidated order in ITA No. 1007, 1028 to 1031/Bang/2016 dated 28.04.2017 for Assessment Years 2008-2009, 2009-10, 2010-2011, 2011-2012 and 2012-2013. This *Tribunal* allowed the appeals filed by the assessee for Assessment Years 2008-2009 and 2010-2011. For the remaining 3 years i.e., Assessment Years 2009-2010, 2011-2012 and 2012-2013, this *Tribunal* set aside the order of CIT(A)-11 and restored the issue to the file of Ld.AO with the following remarks in Para 7 of the order.

"3. So far as remaining disallowances are concerned, the issue was not examined by the lower authorities in the light of details furnished by the assessee. Apparently it is

evident that the assessee has made the investments in mutual funds through management consultant and earned some exempted income. The assessee has also demonstrated that he has sufficient interest free personal funds which were also invested in mutual funds to earn the exempt income. Therefore, AO ought to have examined this aspect whether, the investment in mutual funds were made out of borrowed funds or personal funds. If personal funds, the issue of disallowance should have been adjudicated in the light of judgment of Hon'ble Apex Court in the case of Munjal Sales Corporation v. CIT 298 ITR 298(SC) and CIT v. Microlabs Ltd., 383 ITR 490 (Kar.) Therefore, we are of the view that the issue requires proper verification and examination by the AO. Accordingly, we set aside the order of the CIT(Appeals) in this regard and restore the issue to the file of Assessing Officer to readjudicate the issue in the light of relevant provisions of the Act afresh, after affording opportunity of being heard to the assessee."

.....

"7. So far as disallowance u/s. 14A of the Act is concerned, our attention was invited that during the AYs 2008-09 and 2010-11, the assessee did not earn any exempted income, therefore no disallowance u/s.14A can be made. With respect to other assessment years, the Id. Counsel for the assessee has contended that he has received exempted on account of investment in mutual funds. Moreover, it was done through management consultant by investing its personal funds. Therefore, no disallowance u/s.14A can be made by blindly applying Rule 8D of the I.T. Rules. The Id. Counsel for the assessee further placed reliance upon the judgement of Hon'ble Karnataka High Court in the case of CIT v. Microlabs, 383 ITR 490 (Kar) and the judgement of Hon'ble Apex Court in the case of Munjal Sales Corporation v. CIT, 298 ITR (CS) in support of his contention that if the investments were made out of mixed funds and own funds and own are sufficient to cover the tax free investments, then presumption will be only that the investments were made out of own funds. Since, the assessee was having sufficient personal funds, the AO ought to have examined this aspect."

2.9 During remand proceedings, the assessee furnished relevant details called for and demonstrated that own funds were more than the investment made which had yielded exempt income.

Vide letter filed on 12.07.2018, the assessee submitted that as the own funds are sufficient to cover tax free income yielding investments, no disallowance is called for u/r 8D(2)(ii) of the Act.

2.10 The assessee with respect to disallowance u/r 8D(2)(iii) submitted that only those investments that yielded exempt income during the year could be considered for the purpose of calculating average investments in terms of *Hon'ble Delhi Special Bench* decision in the case of *ACIT vs Vireet Investment (P) Ltd.*, 58 ITR (T) 313.

2.11 The Ld.AO however arrived at a sum of Rs.56,89,037/- as disallowance u/s14A r.w.rule 8D(2)(ii) & 8D(2)(iii) of the Act vide order passed order dated 22.10.2018, assessing the income at Rs. 11,98,01,564/-as against assessed income of Rs. 11,75,79,395/- in the earlier order passed u/s. 143(3) r.w.s 153A dated 24.03.2014 and as against returned income of Rs. 11,37,56,640/- as per revised return of income. Ld.AO while calculating the average investments for the purpose of disallowance u/s 14A of the Act, considered only those investments which yielded exempt income during the year.

2.12 The computation as done by the learned Assessing Officer is as under:

Sr. No.	Average assets yielding exempt income	As on 31.03.2011	As on 01.04.2010
1.	Vaishnavi Infrastructure	9,91,75,354	4,36,74,421
2.	Vaishnavi Projects	I 1,799	I 1,799
3.	Vaishnavi Villas	4,33,04,762	10,45,56,368
4.	Valmark Vaishnavi Ventures	2,90,43,483	3,34,63,313
	Total	14,54,03,179	18,17,05,899

2.13 Being aggrieved by this order passed u/s. 143(3) r.w.s 254 as above, the assessee preferred appeal before the Ld.CIT(A). The Ld.CIT(A) considered the issue by observing as under:

4.2 The submissions of the appellant have duly been considered. Since it is a set aside matter with specific observations of the ITAT, only those arguments of the appellant which are within the scope of the same are being considered. The main claim of the appellant is that it was having own/interest free funds and the same far exceeded the investment which yielded or could have yielded exempt income. To examine this aspect, it is pertinent to look into the financial of the

A.Y. 2012-13

appellant. The data of the same, as appearing in the balance sheets for various financial years is reproduced as follows:

F.Y. ending as on	31.03.2008	31.03.2009	31.03.2010	31.03.2011	31.03.2012
Share Capital	9,44,00,000	9,99,33,330	9,99,33,330	9,99,33,330	9,99,33,330
Accumulated profits	0	0	2,71,04,433	10,15,21,615	20,05,26,684
	9,44,00,000	9,99,33,330	12,70,37,763	20,14,54,945	30,04,60,014
Share Appl Money	1,24,97,500				
Security Premium	13,12,67,530	16,40,00,425	16,40,00,425	16,40,00,425	16,40,00,425
Loans	21,65,46,010	23,67,45,286	27,72,39,311	11,73,10,984	6,93,97,352
Vaishnavi Assoc Share	1,00,000	6,34,10,390	6,34,10,390	6,34,10,390	6,34,10,390
Vaishnavi assoc Share warrant	0	1,77,09,200	1,77,09,200	1,77,09,200	1,77,09,200
	1,00,000	8,11,19,590	8,11,19,590	8,11,19,590	8,11,19,590
Partnership Firms					
Vaishnavi Assoc	0	0	33,659	0	0
Vaishnavi Infra	14,218	4,20,85,487	4,36,74,401	9,91,75,354	8,20,88,870
Vaishnavi Projects	2,13,85,000	5,81,799	11,799	11,799	11,799
Vaishnavi Villas	9,14,45,000	9,65,50,000	10,45,56,368	4,33,04,762	0
Vaishnavi V Ventures	2,26,51,288	2,90,43,483	3,34,63,313	29,11,264	29,11,264
	13,54,95,506	16,82,60,769	18,17,39,540	14,54,03,179	8,50,11,933
Mutual Funds	0	0	0	6,67,253	0

4.3 A perusal of the same shows that at no point of time the appellant was having sufficient own/interest free funds to make the entire investments which could have yielded tax free income. Here it is important to point out the interest free funds available to the appellant would not include the share application money or security premium account and capital redemption reserve. This is for the reason that till completion of share allotment process, the share application money is required to be kept in a separate bank account and cannot be utilised for any purpose other than some specific purposes (Sec 73(3A) of Companies

A.Y. 2012-13

Act 1956). So the appellant was not free to utilize the same for investment in Firms or shares of other concerns. The usage and application of security premium account and capital redemption reserve is controlled by relevant provisions of the Companies Act, 1956 (Sec 78 and Sec 77AA) and as such the same could not have been applied for making such investments in Firms or shares of other concerns.

4.4 It is noted that initially no such investments were there in FY 2006-07. As per the above chart, such investments were made to the extent of Rs 13.56 crore in FY 2007-08 whereas the share capital available was only Rs 9.44 cr. As against the same unsecured loans had suddenly increased to Rs 21.65 crore. This makes it unambiguous that the loans were a major part of such investments as the investments could not have been made out of the available own funds.

4.5 In FY 2008-09 such investments had increased to Rs 24.94 crore whereas the share capital available was only Rs 9.99 crore. As against the same unsecured loans had increased to Rs 23.67 crore. Thus, once again the major source of funds available for making investments were loans and not the interest free funds.

4.6 In FY 2009-10 such investments were to the extent of Rs 26.28 crore whereas the share capital remained stagnant at Rs 9.99 crore. As against the same unsecured loans had increased to Rs 27.72 crore. Thus, in this year also the major source of funds available for making investments were loans and not the interest free funds. Although during this year there were surplus profits of Rs 2.71 crore, however the same would have become available only at the end of the year and as such the same cannot be said to be available during the year for such investments. Even if it is considered otherwise, the same were not sufficient to make the interest free funds more than the investments which had yielded exempt income.

4.7 In FY 2010-11 the investment had decreased to Rs 22.71 crore. So whatever investments were there, the same were brought forward one or can be

A.Y. 2012-13

considered as the circulation of the old investments and as already discussed supra the source of such investments was not covered by the interest free funds. During the year under consideration there were brought forward surplus profits of Rs 2.71 crores, however since the investments were pre-existing, these funds could not be said to be used for making such investments. Additional surplus profits of Rs 7.44 crore became available during the year, however the same would have become available at the end of the year only and as such the same cannot be said to be available during the year for such investments. Even if it is considered otherwise, the same were not sufficient to make the interest free funds more than the investments which had yielded exempt income.

4.8 In FY 2011-12 the investment had decreased to Rs 18.61 crore. So whatever investments were there, the same were brought forward one or can be considered as the circulation of the old investments and as already discussed supra the source of such investments was not covered by the interest free funds.

4.9 Thus the reliance of the appellant on various decisions including *Microlabs Ltd (Supra)* which hold that the provisions of Section 14A would not apply if the interest free fund are more than the invested funds, become misplaced as the facts of the case under consideration are different. The appellant has also relied upon the decision in the case of *South Indian Bank Ltd (Supra)*. However, a perusal of the same shows that in the said case the assessment years involved were prior to introduction of Rule 8D and as such no specific method of computation of disallowance was prescribed. However, in the case under consideration the facts are different as Rule 8D was introduced w.e.f. 24.03.2008 and the same details the computation of disallowance even in the case of mixed funds. As such the above referred decision does not help the appellant. The reliance of the appellant on the decision in the case of *Reliance Industries Ltd. (Supra)* is also misplaced as the said decision was not in relation to Section 14A of the Act. As such the ratio of the same cannot be applied.

A.Y. 2012-13

4.10 In view of the above, the argument of the appellant that the investments were made out of the interest free own funds is found to be patently incorrect and the same is rejected.

4.11 During appellate proceedings this was noted that the appellant had certain investments in mutual funds (Rs 6,67,253/- as on 31.03.2011; Nil as on 31.03.2010) and it had earned exempt income from the same also. However, the AO had not considered the same while computing the disallowance. Further, while computing the disallowance as per Rule 8D, the AO had not considered the bank charges (Rs 1,03,146/-) as part of the interest. Since taking these into account would have resulted in increased disallowance, so during hearing on 12.05.2022 the AR of the appellant was asked as follows:

- "(i) Why the amount of investment in mutual funds should not be considered while applying Rule 8D as exempt income was earned from the investment?
(ii) How bank charges are not part of interest in view of the definition of interest as per Section 2(28A) of the IT Act and as such why the amount should not be considered while applying Rule 8D?"*

4.12 In response to the same, vide consolidated written submissions filed on 31.05.2022 for AY 09-10, AY 2011-12 and AY 2012-13 the appellant has submitted that the investment in mutual funds was from internal accruals and as such the same should not be considered while working out disallowance. As regards bank charges, it was submitted that the same were not interest as per Section 2(28A) of the Act as the same were incurred for DD charges, RTGS and NEFT charges.

4.13 The submissions of the appellant have duly been considered. As regards mutual funds, since the appellant has earned exempted income and it has also failed to show that the funds available with it were more than the investments, as discussed supra, the amount should have been considered by the AO while computing disallowance under Section 14A of the Act. As regards bank charges, it is relevant to note the definition of interest as per Section 2(28A) of the Act. The same is reproduced as follows:

"Definitions.		A.Y. 2012-13
2. In this Act, unless the context otherwise requires,—		
(28A) "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised ;"		
<p>4.14 A perusal of the above show that any service fee or other charge in respect of the moneys borrowed or debt incurred is also <u>interest</u>. Since the bank charges are in in respect of the loans taken by the appellant, same would be interest as per above definition and the AO should have computed the disallowance under Section 14A after considering the same. So in view of the above the AO should recompute the disallowance after adding investment of Rs 6,67,253/- in mutual funds while computing the average investments from which tax exempt income is earned and also adding the bank charges of Rs 1,03,146/- to the interest on loans. The disallowance under Section 14A of the Act would get enhanced accordingly.</p>		

2.14 Aggrieved by the order of Ld.CIT(A), the assessee preferred appeal before this *Tribunal*.

3. The Ld.AR submitted that the details of free funds available with assessee for years under consideration are as under:

A.Y.	Share Capital	Reserve & Surplus	Total
2009-10	9,99,33,330	16,45,79,425	26,45,12,755
2011-12	9,99,33,330	26,55,22,040	36,54,55,370
2012-13	9,99,33,330	36,45,27,109	46,44,60,439

4. The Ld.AR further submitted that the investments made in Mutual funds and other partnership / companies are as under:

A.Y.	Investment in partnership / Co.	Investment in Mutual funds
2009-10	24,93,80,359	-
2011-12	22,65,22,769	6,67,253
2012-13	11,78,26,312	-

5. The Ld.AR submitted that assessee had also received income from partnership firms in all the years under consideration and for A.Y. 2011-12 & 2012-13, assessee earned income from mutual funds also as under:

A.Y.	Income from investment in partnership	Income from mutual funds
2009-10	61,75,244	-
2011-12	6,46,61,298	6,67,253
2012-13	8,34,81,498	4,73,396

6. It was thus submitted that own funds far exceeded the value of investments. She placed reliance on the following decisions:

1. *Decision of Hon'ble Supreme Court in case of Munjul Sales Corpn. Vs CIT reported in 298 ITR 298*
2. *Decision of Hon'ble Bombay High Court in case of CIT vs Reliance Utilities & Power Ltd. reported in 313 ITR 340*
3. *Decision of Hon'ble Madras High Court in case of CIT vs Sambandham Spinning Mills Ltd. reported in 298 ITR 306*

7. She also relied on the decision of *Coordinate Bench of this Tribunal* in case of *DCIT vs. Bosch Ltd.* reported in (2017) 87 *taxmann.com* 351 in support of her contentions.

8. The Ld.AR then submitted that *Hon'ble Supreme Court* in case of *South Indian Bank Ltd. vs. CIT* in *Civil Appeal No. 9606/2011 vide order dated 09/09/2021* has considered the issue of proportionate disallowance of interest paid by the banks u/s. 14A of the Act in respect of the investment made in tax free bonds and securities that had yielded exempt income. *Hon'ble Supreme Court* after considering the facts in that case was of the view that when both interest free funds and interest bearing funds were available with assessee, it is presumed that the investment were made out of interest free own funds. In respect

of disallowance under Rule 8D(2)(iii), it is submitted by the Ld.AR that the disallowance has to be in respect of such investment that has yielded exempt income. On the contrary, the Ld.DR relied on the orders passed by authorities below.

We have perused the submissions advanced by both sides in the light of records placed before us.

9. We note that from the extract of the tables reproduced hereinabove, assessee has share capital and reserve & surplus more than the investment made during the respective assessment years. We refer to the view expressed by *Coordinate Bench of this Tribunal* in case of *DCIT vs. Bosch Ltd. (supra)*

“27. We have considered the rival submissions as well as the relevant material on record. As regards the disallowance on account of interest expenditure, we find that the assessee has claimed interest free funds of more than Rs.2,275 Crores in comparison to the total investment of Rs.910 Crores. There is no quarrel on the point that if the assessee's own funds are more than investment made then no disallowance is called for on account of interest expenditure under Section 14A of the Act. The Hon'ble jurisdictional High Court in the case of Microlabs Ltd. (supra) while dealing with an identical issue has observed at page 496 para 5 as under:

40. We have heard the rival submissions. A copy of the availability of funds and investments made was filed before us which is at pages 38 to 42 of the assessee's paper book and the same is enclosed as ANNEXURE-III to this order. It is clear from the said statement that the availability of profit, share capital and reserves & surplus was much more than investments made by the assessee which could yield tax free income.

41. The Hon'ble Bombay High Court in Reliance Utilities & Power Ltd 313 ITR 340 (Bom) has held that where the interest free funds far exceed the value of investments, it should be considered that investments have been made out of interest free funds and no disallowance u/s. 14A towards any interest expenditure can be made. This view was again confirmed by the Hon'ble Bombay High Court in CIT v. HDFC Bank Ltd., ITA No.330 of 2012, judgment dated 23.7.14, wherein it

was held that when investments are made out of common pool of funds and non-interest bearing funds were more than the investments in tax free securities, no disallowance of interest expenditure u/s. 14A can be made.

42. In the light of above said decisions, we are of the view that disallowance of interest expenses in the present case of Rs.49,42,473 made under Rule 8D(2) (ii) of the I.T. Rules should be deleted. We order accordingly."

The aforesaid shows that the Tribunal has followed a decision of the Bombay High Court in the case of CIT v. HDFC Bank Ltd. 120141 366 ITR 505/226 Taxman 132 (Mag.)/49 taxmann.com 335. When the issue is already covered by a decision of the High Court of Bombay with which we concur, we do not find any substantial question of law would arise for consideration as canvassed."

Accordingly, in case when the assessee's own fund is more than the investment made in the tax free securities then the disallowance on account of interest expenditure under Section 14A is not called. Since the details filed by the assessee are pertaining to the F. Y. 2006-07 and not for the F. Y. 2007-08 relevant to the assessment year under consideration therefore, we set aside this issue to the record of the Assessing Officer for limited purpose of verification of relevant facts of availability of interest free assessee's own funds and then decide this issue in the light of various binding precedents."

10. We also refer to the decision of Hon'ble Karnataka High Court in case of CIT vs. Microlabs Ltd. reported in (2017) 79 taxmann.com 365 wherein Hon'ble Court held as under:

"Section 14A of the Income-tax Act, 1961 - Expenditure incurred in relation to income not includible in total income - (Interest) - Assessment year 2009-10 - Where availability of profit, share capital and reserves and surplus was much more than investments made by assessee which could yield tax-free income, no disallowance of interest expenditure under section 14A could be made [In favour of assessee]

Where the availability of profit, share capital and reserves and surplus was much more than investments made by the assessee which could yield tax-free income, no disallowance of interest expenditure under section 14A could be made.

5. For the second question, the observations made by the Tribunal in the impugned order reads as under:

..... 40. We have heard the rival submissions. A copy of the availability of funds and investments made was filed before us which is at pages 38 to 42 of the assessee's paper book and the same is enclosed as AIVNEXURE-III to this order. It is clear from the said statement that the availability of profit, share capital and reserves & surplus was much more than investments made by the assessee which could yield tax free income.

41. The Hon'ble Bombay High Court in *Reliance Utilities & Power Ltd.* 313 ITR 340 (Bom) has held that where the interest free funds far exceed the value of investments, it should be considered that investments have been made out of interest free funds and no disallowance u/s. 14A towards any interest expenditure can be made. This view was again confirmed by the Hon'ble Bombay High Court in *CIT v. HDFC Bank Ltd.*, ITA No.330 of 2012, judgment dated 23.7.14, wherein it was held that when investments are made out of common pool of funds and non-interest bearing funds were more than the investments in tax free securities, no disallowance of interest expenditure u/s. 14A can be made.

42. In the light of above said decisions, we are of the view that disallowance of interest expenses in the present case of Rs.49,42,473 made under Rule 8D(2) (ii) of the I.T. Rules should be deleted. We order accordingly."

The aforesaid shows that the Tribunal has followed a decision of the Bombay High Court in the case of *CIT v. HDFC Bank Ltd.* 120141 366 ITR 505/226 Taxman 132 (Mag.)/49 taxmann.com 335. When the issue is already covered by a decision of the High Court of Bombay with which we concur, we do not find any substantial question of law would arise for consideration as canvassed.

6. In view of the above observations, the appeal is dismissed."

11. Admittedly, assessee has mixed funds but we also note that it has sufficient own funds to make investments during the relevant year under consideration. The Ld.CIT(A) observes that at no point of time, assessee was having sufficient own funds to make the entire investment, cannot be accepted. We therefore direct the Ld.AO to delete the addition made under Rule 8D(2)(ii). In respect of disallowance made under Rule 8D(2)(iii), we note that consistently this issue has been restricted only to

such investments that has yielded exempt income during the relevant year. We accordingly, direct the Ld.AO/TPO to restrict the disallowance if any only in respect of such investments that has yielded exempt income during the relevant year under consideration. We also note that Ld.CIT(A) has in para 4.13 of its order refers to the definition of interest as per section 2(28A) of the Act. The Ld.CIT(A) presumes that the bank charges have been claimed by assessee which is in respect of the borrowed funds without verifying the details. During the time of hearing, the Ld.AR was called upon to file the bank charges, ledger account for the years under consideration and upon verification of the same, we note that nothing can be attributed to the monies borrowed or any debt incurred. Therefore we do not find any reason to include the bank charges for the purposes of computing the disallowance under Rule 8D.

12. With the above direction, we direct the Ld.AO to recompute the 14A disallowance after giving proper opportunity of being heard to assessee.

Accordingly, the appeals filed by the assessee stands allowed for statistical purposes.

In the result, all the three appeals filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 30th November, 2022.

Sd/-
(PADMAVATHY S)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 30th November, 2022.
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT

4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar,
ITAT, Bangalore