

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"G" BENCH, MUMBAI**

**SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 7221/MUM/2018  
(Assessment Year: 2010-11)**

**Standard Chartered Capital Limited  
(formerly known as Standard Chartered  
Investments and Loans (India) Limited,  
6<sup>th</sup> Floor, C-38/39, G Block, Bandra Kurla Complex,  
Bandra (East), Mumbai - 400020  
[PAN: AAHCS6432N]**

..... **Appellant**

**Deputy Commissioner of Income Tax  
-1(3), Mumbai,  
Aayakar Bhavan, Marine Lines,  
Mumbai - 400001**

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Ms. Riddhi Maru  
For the Respondent/Department : Shri Paresh Deshpande

**Date** : 28.06.2023  
Conclusion of hearing : 30.06.2023  
Pronouncement of order

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Appellant has challenged the order, dated 05/10/2018, passed by the Ld. Commissioner of Income Tax (Appeals)-58, Mumbai [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2010-11, whereby the Ld. CIT(A) had partly allowed the appeal of the Appellant against the Assessment Order, dated 28/03/2014, passed under Section 143(3) read with Section 144C of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The Appellant has raised following grounds of appeal:

- "1. *The learned Commissioner of Income Tax(Appeals)-58 erred in granting only partial relief on the disallowance of expenses made by the DCIT-1(3) under section 14A of the Income-tax Act, 1961 considering the same as expenses incurred in relation to earning the exempt income.*

*The assessee submits that no notional disallowances for the expenses can be made under Rule 8D (2)(iii) as it has not incurred any direct and indirect expenses incurred related to earning exempt dividend income.*

*Additional Ground Of Appeal*

*Additional Ground No 2: Application of India-UK tax treaty rate for dividends while determining Dividend Distribution Tax Liability (DDT) of the Appellant*

- 2.1. *On the facts and in the circumstances of the case and in law, the Learned Assessing Officer (Ld. AO) ought to appreciate that the DDT liability of the Appellant for AY 2010-11 on the dividends declared by it to Standard Chartered Bank, a tax resident of UK shall be restricted to the applicable rate of tax on dividends, as prescribed under the India - UK tax treaty.*
- 2.2. *On the facts and in the circumstances of the case and in law, rate prescribed under Article 11 of the India - UK tax treaty should be treated as inclusive of surcharge and education cess and therefore the liability to pay tax under section 115-0 of the Act should not be further increased by surcharge and cess under the provisions of the Act.*
- 2.3. *On the facts and in the circumstances of the case and in law, the Ld. AO ought to grant a refund of the DDT paid by the Appellant in excess of the rate of tax on dividends as prescribed under the India - UK tax treaty, along with the corresponding interest due on such refund.*

*Additional Ground No. 3: Deduction of education cess paid by the Appellant while computing the total income under normal provisions of the Act*

- 3.1 *On the facts and in the circumstances of the case and in law, the Ld. AO erred in not granting a deduction for Education Cess and Secondary and Higher Education Cess on the income tax paid for AY 2010-11 while computing the Income from Business and Profession."*

3. Ground No. 1 was raised in appeal before the CIT(A) whereas Additional Ground No. 2 and Additional Ground No. 3 have been raised for the first time before the Tribunal.

**Ground No. 1**

4. We would first take up Ground No. 1 pertaining to disallowance under Section 14A of the Act.

- 4.1. The relevant facts in brief are that assessment was framed on the Appellant vide Final Assessment Order, dated 28/03/2014 passed under Section 143(3) read with Section 144C of the Act. While framing the assessment, the Assessing Officer made a disallowance of INR 41,25,960/- under Section 14A of the Act by invoking provisions of Rule 8D(2)(iii) of the Income Tax Rules, 1962 (hereinafter referred to as 'the Rules').

- 4.2. The Appellant carried the issue in appeal before CIT(A) who granted partial relief to the Appellant holding as under:

*"The matter is examined. The decision in ACIT, Circle-17(1). New Delhi Vs Vireet Investment (P) Ltd., ITA No 502 of 2012 (SB) (Del.) goes in favour of Assessing Officer. The Assessing Officer is directed to re-compute disallowance after eliminating investment that did not yield exempt income in computation of average value of investment based on Rule 8D With this direction the ground is disposed of No order prejudicial to assessee should be passed without granting opportunity of being heard. Ground 3 is treated as partly allowed."*

- 4.3. Not being satisfied with the relief granted by the CIT(A), the Appellant is in appeal before us on this issue.

- 4.4. We have considered the rival submissions and perused the material on record. We find that the CIT(A) has granted partial relief to the Appellant by directing the Assessing Officer to re-compute

disallowance under Section 14A of the Act read with Rule 8D(2)(iii) of the Rules after taking into consideration only the investments that yielded exempt income by following the decision of Special Bench of the Tribunal in the case of Assistant Commissioner of Income Tax, circle 17(1), New Delhi Vs. Vireet Investment Pvt. Ltd. : [2017] 58 ITR(T) 313 (Delhi - Trib.) (SB). Therefore, we do not find any infirmity in the order passed by the CIT(A). Ground No. 1 raised by the Appellant is, therefore, dismissed.

**Additional Ground No. 2 & 3**

5. The Appellant had raised Additional Grounds as Additional Ground No. 2 (seeking applicability of tax treaty rate for dividends) and Additional Ground No. 3 (seeking deduction for education cess) before the Tribunal vide letter dated 14/09/2021. However, during the course of the hearing, the Ld. Authorised Representative for the Appellant stated under instruction that the Appellant does not wish to pursue the additional grounds in view of the subsequent developments. Accordingly, Ground No. 2 and 3 raised by the Appellant are dismissed as having not being pressed.
6. In result, the present appeal is dismissed.

Order pronounced on 30.06.2023.

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 30.06.2023  
Alindra, PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai