

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

**BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.1495/Mum/2023
(A.Y. 2017-18)**

M/s Starlight Systems Private Limited, 5 th Floor, Suntech Centre, 37-40 Subhash Road, Vile Parle (East), Mumbai – 400 057	Vs.	DCIT, CC-3(4) Room No. 1923, 19 th Floor, Air India Building Nariman Point Mumbai - 400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAFCS7733L		
Appellant	..	Respondent

Appellant by :	Gaurav Kabra
Respondent by :	Suresh D. Gaikwad

Date of Hearing	13.07.2023
Date of Pronouncement	26.07.2023

आदेश / ORDER

Per Amarjit Singh (AM):

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A)-51, Mumbai, dated 14.12.2022 for A.Y. 2017-18. The assessee has raised the following grounds before us:

- “1. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in disallowing expenses of Rs.30,00,355/- u/s.14A of the Income Tax Act, 1961, without considering the facts and circumstances of the case.*
- 2. The appellant craves leave to add, amend, alter or delete the said ground of appeal.”*
2. The assessment u/s 143(3) of the Act in the case of the assessee was finalised on 14.10.2019. During the course of assessment the assessing officer noticed that assessee has earned dividend income of

Rs.30,00,355/- which was claimed as exempt income. The assessing officer further noticed that assessee has not made any disallowance u/s 14A r.w. rule 8D for earning the aforesaid exempt income. Therefore, the assessing officer has computed the disallowance as per Sec. 14A r.w. Rule 8D to the amount of Rs.66,82,000/- and restricted the same to the extent of exempt income of Rs.30,00,355/- and added to the total income of the assessee.

3. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee.

4. During the course of appellate proceedings before us the ld. Counsel referred page no. 52 of the paper book pertaining to notes to financial statement and contended that the investment on which the assessee has earned dividend income was only 5712 lacs as on 31.03.2017 and Rs.3381.75 lacs as on 31.03.2016. Similarly, the ld. Counsel also referred financial statement pertaining to F.Y. 2014-15 to F.Y. 2015-16. The ld. Counsel further submitted that while computing disallowance the assessing officer has not considered the average value of the investment on which the assessee has earned the exempt income.

On the other hand, the ld. D.R supported the order of lower authorities.

5. Heard both the sides and perused the material on record. On perusal of the assessment order it is observed that assessing officer has suo moto calculated disallowance u/s 14A r.w.Rule 8D after taking into account average value of investment to the amount of Rs.6681.53 lacs without considering average value of investment which yielded exempt income during the year under consideration. The Hon'ble Delhi High Court in the case of Cargo Motors (P) Ltd. Vs. DCIT (2022) 145 taxman.com 641 (Delhi) held that for purpose of making disallowance of expenses under section 14A as per rule 8D, only those investment

were to be considered for computing average value of investment which yielded exempt income during relevant assessment year. Therefore, we restore this issue to the file of the assessing officer for computing the disallowance u/s 14A r.w.Rule 8D after examination of the relevant details filed by the assessee on the basis of average investment which yielded exempt income to the assessee. Therefore, ground of appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 26.07.2023

Sd/-

(Aby T Varkey)
Judicial Member

Sd/-

(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 26.07.2023

Rohit: PS

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

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

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

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