

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

ITA Nos. 226/SRT/2023 & 288/SRT/2022

(AYs: 2017-18 & 2018-19)

(Physical hearing)

The ACIT, Central Circle-2, Surat.	Vs	M/s. Aalidhara Textool Engineers Pvt. Ltd., Plot No.168, Udhyog Nagar Road, Udhna, Surat - 394210 PAN : AAACD8469M
APPELLANT		RESPONDEDNT

Appellant by	Shri Ashish Pophare, CIT-DR with Shri Vinod Kumar, Sr. DR
Respondent by	Shri Rasesh Shah, CA
Date of hearing	17/10/2023
Date of pronouncement	20/11/2023

Order under Section 254(1) of Income tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. These two appeals by the Revenue are directed against the separate orders of learned Commissioner of Income Tax (Appeals) [in short “the CIT(A)”], Surat dated 10.01.2023 and 27.07.2022 for Assessment Years (AYs) 2017-18 and 2018-19 respectively. In both the years, Revenue has raised certain common grounds of appeal. On the grounds of appeal in both the appeals relate to disallowance under section 14A of Income Tax Act, thus both the appeals were clubbed, heard and are decided by common order to avoid the conflicting decision. The ld. CIT(A) decided the appeal for AY.2018-19 as in order dated 27.07.2022 which was followed in appeal for AY.2017-18. Thus, appeal for AY.2018-19 was treated as lead case.

2. The Revenue has raised following grounds of appeal:

“(1) On the facts and in the circumstances of the cases and in law, the Ld.CIT(A) has; erred in deleting the' disallowance of Rs.2,70,85,577/- made by the Assessing Officer under Sec.14A of the Act without: considering the fact that the assessee have neither furnished the details of expenses incurred for earning exempt income nor has made disallowance under Sec.14A of the Act in original return or in the revised return of income and it has only submitted a revised computation of income showing a disallowance of Rs.4,59,140/- only as against the total exempted income of Rs.68,45,93,255/-.

(2) On the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in placing reliance on the decision of the Hon'ble Jurisdictional High Court and. Hon'ble Supreme Court in the case of in PCIT Vs. Sintex Industries Ltd. (82 Taxmann.com) 428 and his predecessor's decision in the assessee's own case for Asst. Year 2014-15, without appreciating the fact that there has been amendment in Rule 8D of the I.T. Rules, 1962 w.e.f. 02.06.2016 and in the assessment year under consideration, the Assessing Officer has made disallowance as per the provisions of Section 14A of the Act r. w. amended Rule 8D of the I.T. Rules whereas the issue under consideration in the decision relied upon by the Ld. CIT(A) was the payment of interest and availability of interest free funds as per the provisions of Section 14A r.w. pre-amended Rule 8D of the I.T. Rules.

(3) On the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in restricting the disallowance of Rs.39,75,000/- on account of excess claim of deduction under Sec.80G of the Act to Rs.33,00,000/- and thereby giving a relief of Rs.6,75,000/- by observing that the assessee has furnished receipts of donations, during the course of appellate proceeding as well as assessment proceedings, wherein the details of registration of the Trusts under Sec. 80G of the Act were available whereas no such details were furnished by the assessee or

even by the Trusts despite issue notice under Sec. 133(6) of the Act by the AO during the course of assessment proceedings.

(4) It is, therefore, prayed that the order the Ld. CIT(A)-4, Surat may be set aside and that of the AO may be restored to the above extent.

(5) The appellant craves leave to add, alter, amend and/or withdraw any ground(s) of appeal either before or during the course of hearing of the appeal.”

3. Brief facts of the case are that assessee is a Private limited company, engaged in manufacturing of textile machines. For AY.2018-19, while filing the return of income, the assessee declared income of Rs.26.19 crore. The case was selected for scrutiny. During the assessment, the Assessing Officer noted that in the computation of income, the assessee has shown exempt income on account of dividend, mutual fund, long term capital gain and profit from partnership. The assessee earned aggregating exempt income of Rs.68.45 crore. However, the bifurcation of exempt recorded by assessing officer income is as under:

SR No.	Nature of exempt income	Amount Rs.000
1	Dividend	42,17,214
2	Dividend from Mutual Funds	4,16,96,742
3	Long term capital gain	18,87,75,201
4	Profit from partnership firm 10(2A)	10,76,07,470

4. The Assessing Officer further noted that assessee has filed revised computation of income wherein assessee has made disallowance of Rs.4,59,140/- under section 14A. The assessee also inform that disallowance of Rs.4,59,140/- is 1.00 % of exempt income. The assessee also submitted that Rs.16,57,950/- was also disallowed while computing total income, which was incurred from running

exempt income. The Assessing Officer recorded that “it seems that disallowance under section 14A has not been calculated as per the Act”. The Assessing Officer issued show cause notice as to why disallowance should not be made in accordance with provision of Rule 8D and itself been added to the total income of assessee. The assessee filed its reply dated 28.06.2021. In the reply, the assessee stated that in assessee’s own case for AY 2008-09, the assessing officer made similar disallowance under section 14A, which has been deleted by Tribunal in order dated 04.04.2016 in ITA No.2738/Ahd/2011 and following said decision similar addition was deleted by Id. CIT(A) in appeal for AY.2013-14 and 2014-15. The assessee further stated that they have earned dividend income of Rs.4.59 crore which includes dividend of share of Rs.42.17 lakhs and mutual fund dividend of Rs.4.19 crore. The dividend income was earned mainly from shares and mutual funds held by assessee for the purpose of investment only on which the assessee has already allowed 1.00 % of exempt income. Direct expenses incurred to earn income of Rs.16,57,950/-, exempt income was already disallowed. The dividend or mutual funds and shares derived by assessee on investment which was made on its own funds and no cost in making such investment to associate such investment. The assessee has not made any borrowing for such investment. The assessee company has not incurred any expenses specifically for carrying out investment activities for reason that investment in shares and mutual funds were made through financial

institutions /banks which were providing door step free services for investment relating activities. The necessary paper and other related facilities were provided free of cost. The question for making disallowance under section 14A arise only when assessee has incurred any expenditure in relation to income, which does not form part of total income under the Act or where Assessing Officer is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to such exempt income. Further, Sub-Rule (2) of 8D can be invoked only when Assessing Officer is not satisfied with the claim made by assessee. To support such submission, the assessee has placed on the decision of in the case of CIT vs. Hero Cycles Ltd., 323 ITR 518 (P & H HC), CIT vs. Sapoorji Paloonji & Co. Ltd., 318 ITR 417 (Bombay HC), Kalyani Steels Ltd. vs ACIT, ITA No.1733/Pun/2012, Kodak India Pvt. Ltd. vs. ACIT, ITA No.7349/Mum/2012, PCIT vs. Sintex Industries Ltd., 82 taxmann.com 428 (Guj. HC). The assessee again vide reply dated 21.08.2021 contended that assessee has non-current investment of Rs.290.23 crore and the assessee has claimed various exempt income (which were have narrated in para 3). The Assessing Officer again specifically asked the assessee as to why disallowance under section 14A should not be made. The assessee again filed its reply dated 24.08.2021 wherein the assessee sated that they have already filed their reply dated 28.02.2021 and the order of earlier various years passed by ld. CIT(A) or Tribunal for AY.2008-09 and 2013-14.

5. The reply of assessee was not accepted by Assessing Officer. The Assessing Officer held that the decision relied by assessee are not applicable. The assessee failed to establish as to how the decision in earlier year either by Tribunal or by Id. CIT(A) is applicable on assessee's case. Further, the assessee has not given bifurcation of expenditure and that there is no disallowance either in original return of income or in revised return of income, so disallowance under section 14A of *suo moto* disallowance is not acceptable. The assessee simply revised the computation of income wherein section 14A disallowance was made to avoid penalty. The Assessing Officer worked out the disallowance of Rs.2.70 crore under section 14A by invoking the formula of Rule 8D. The Assessing Officer worked out the average value of investment of Rs.254.27 crore and disallowed 1.00% there are, as well as the direct expenses shown by assessee of Rs.16.57 lakhs (already disallowed by assessee).
6. The Assessing Officer on further perusal of computation of income finds that assessee claimed deduction of Section 80G of Rs.66.00 lakhs on account of donations made to various trusts, i.e. Rs.52.00 lakhs to Dudhiben Ambalal Gondalia Education Foundation Trust, Rs.11.00 lakh to Shri Leuva Patel Pragati Mandal and Rs.2.50 lakh to Shri Saurashtra Patel Kelawani Mandal. The assessee was asked to furnish the details. The Assessing Officer noted that assessee has not produced 80G certificate issued by the Department to these trusts. The Assessing Officer issued notice under section 133(6) to Dudhiben

Ambalal Gondalia Education Foundation Trust, for seeking copy of registration under section 80G. The Assessing Officer noted that Dudhiben Ambalal Gondalia Education Foundation Trust was received and they furnished a copy of registration under section 80G. The other two trust has not furnished any reply. The assessee furnished a copy of letter/confirmation from Shri Leuva Patel Pragati Mandal and Shri Saurashtra Patel Kelawani Mandal, but copy of 80G certificate was not furnished. Accordingly, claim of genuineness of transaction of Leuva Patel Pragati Mandal and Shri Saurashtra Patel Kelwani Mandal was not accepted. The Assessing Officer further recorded that in the revised computation, the assessee stated that donation made to these trust is eligible for 50% deduction only that is Rs.26.25 lakhs against Dudhiben Ambalal Gondalia Education Foundation Trust and Rs.6.75 lakhs against both the trust that is Saurashtra Patel Kelwani Mandal and Leuva Patel Pragati Mandal Trust may be allowed. The Assessing Officer thereby allowed deduction to the extent of 50% in respect of donation to Dudhiben Ambalal Gondalia Education Foundation Trust and all remaining donations in absence of 80G certificates were disallowed. The Assessing Officer worked out disallowance of Rs.39,75,000/- (66,00,000 – 26,25,000).

7. Aggrieved by addition/disallowance in the assessment order, the assessee filed appeal before Id. CIT(A). Before Id. CIT(A), the assessee filed detailed written submission on the disallowance under section

14A, the submission of assessee is recorded in para 6.1 of order of Id. CIT(A). The assessee is in sum and substance, reiterated the submission has made by Assessing Officer. In addition to, the assessee submitted that dividend income earned from unit of mutual funds of Rs.4.16 crore and dividend income from companies to the extent of Rs.4.27 lakhs was received by assessee through ECS electric system or automatic re-investment option and therefore no human efforts were involved in earning such income. The assessee company being in high net-worth investor category, always used to get door step services or online services from financial institutions or banks etc., where no human efforts were involved. The assessee has not utilized borrowed funds. The assessee has already disallowed 1.00% of dividend income and indirect expenses. The indirect expenses are on account of STT, GST on investments or said investment, transaction charges etc. on shares, legal and professional charges given to investment advisory. Now, when the assessee in fact has not incurred any further expenditure for earning dividend income, it is imperative on the part of the Assessing Officer to record his satisfaction as to why the contention of assessee is not acceptable. The Assessing Officer has not pointed out any other expenses which would have gone in earning dividend income. The assessee has availed free of cost services of mutual fund companies. Even if any disallowance to be made, it should be restricted to 2.00% on appropriate percentage of dividend income.

8. The assessee further stated that Assessing Officer considered the average investment by including the investment and partnership firm. The assessee submitted that income earned from partnership firm is earned on distribution of profit after payment of tax and same cannot be termed as income under the exempt income in the hands of partners. The share of profit received by assessee is not from different person. Such income received on account of distribution of profit, cannot be put at par with the other income received on investment like mutual fund or equity share where the prayer is a different entity. However, in the case of firm, the income was not received from a different person. The assessee also relied on decision in assessee's own case for earlier years. On the issue of disallowance under section 80G, the assessee submitted that Saurashtra Patel Kelwani Mandal and Leuva Patel Pragati Mandal Trust contains the registration number under 80G, the assessee also furnished their receipt of donation and prayed that the assessee is eligible for 50% of deduction as their registration certificate under 80G were missing.
9. The Id. CIT(A) on considering the submission of assessee simply relied on the decision of his predecessor in assessee's own case for earlier years in CIT(Appeal) No. CIT(A) Surat/4/10375/2018-19 dated 24.04.2019 and held that the assessee was having interest free fund which were more than average investment, hence disallowance under section 14A was not warranted. It was held that there is no change in

the facts in the present assessment year and entire disallowance of Rs.2.70 crore was deleted.

10. On the disallowance under section 80G of Rs.39,75,000/-, the ld. CIT(A) recorded that during assessment, the Assessing Officer called the details from various trusts by showing a notice, the registration certificate under section 12A and 80G were missing in respect of two trusts. As the registration certificates of trusts namely Shri Leuva Patel Pragati Mandal and Saurashtra Patel Kelawani Mandal were not received, the Assessing Officer disallowed entire contention. During the appellate stage, the assessee furnished receipt of Leuva Patel Pragati Mandal and Saurashtra Patel Kelawani Mandal with contains the detail of registration under section 80G, therefore the assessee was allowed relief to the extent of 50% of aggregate donation of both the trust, i.e. (50% of Rs.52,50,000 + Rs.11,00,000 + Rs.2,50,000) = Rs.33,00,000/- and the remaining (i.e. Rs.6,75,000/-) was sustained. Aggrieved by the order of ld CIT(A), the Revenue has filed present appeal before Tribunal.
11. We have heard the submission of learned Commissioner of Income Tax-departmental representative (ld. CIT-DR) for the Revenue and the learned authorised representative (ld. AR) of the assessee. The ld. CIT-DR for the Revenue submits that ld. CIT(A) while granting relief to the assessee the ld CIT(A) place reliance on the decision of jurisdictional High Court in PCIT vs. Sintex Industries Limited, 82 taxmann.com 428 (Guj) and the decision of his predecessor in assessee's own case

was AY.2014-15. The ld. CIT(A) failed to appreciate that Rule 8D of Income Tax Rule, 1962 was amended with the effect from 02.06.2016 and the Assessing Officer made disallowance as per amended Rule 8D read with section 14A, whereas the ld. CIT(A) relied upon the decision which was on account of payment of interest and availability of interest free fund as per the provision of pre-amended provision of Rule 8D. The assessee has neither shown *suo motu* disallowance under section 14A either in the original return of income nor the revised return of income. The assessee simply filed revised computation of income for AY.2018-19 after issuing notice under section 143(2) and *duo moto* disallowance was made to avoid the penalty. The assessee itself accepted that they have incurred expenses to earn exempt income, so the applicability of section 14A is not in dispute, which is stand accepted while filing revised computation of income. The ld. CIT(A) submits that order of ld. CIT(A) is contrary to the law applicable for the assessment year under consideration. The ld. CIT(A) simply followed the order of his predecessor without application of mind. The ld. CIT-DR prayed that order of Assessing Officer may be restored by reversing the order of ld. CIT(A).

12. On ground no.2, which relates to disallowance under section 80G, the ld CIT-DR submits that ld. CIT(A) allowed relief to the assessee on the basis of registration number of trust were reflected on their receipt whereas no such details were furnished to the Assessing Officer, even

by trust despite issue notice under section 133(6) to those trusts. The ld. CIT-DR submits that he supports the order of Assessing Officer.

13. On the other hand, ld. AR of the assessee supported the order of ld. CIT(A). The ld. AR for the assessee submits that even for invoking amending Rule 8D pertaining to AY.2017-18 and 2018-19, the Assessing Officer is required to examine the correctness of working of expenditure claimed by the assessee *vis-à-vis* the account of assessee and to find fault therein. The satisfaction must be objective and the Assessing Officer has not arrived at objective satisfaction as prescribed in Section 14A, therefore, the disallowance under section 14A is not permissible. The assessee while filing return of income furnished complete separate working and sub-annexures in the audit report itself with the heading "*Expenses related with exempt income*" and Assessing Officer has not found fault it therein. The ld. AR submits that all the sub-annexures which is formal part of audit report and copy thereof is filed at page no.14 of paper book. The assessee has furnished complete bifurcation of expenses incurred to earned exempt income and thereby disallowed Rs.16,57,950/-. The ld. AR for the assessee further submits that the total administrative expenses incurred by assessee is only of Rs.79,58,383/-, the complete bifurcation of such expenses are also given on page no.14 and 15 of paper book, the complete details is available on such details of total turnover of the assessee is only Rs.127.39 crore on which the assessee has incurred expenses of Rs.79,58,383/- which is 0.62% of

total turnover. The Assessing Officer has not pointed out any common expenditure which can go towards earning exempt income. Similarly, for AY.2017-18, the total expenses related exempt income is Rs.8,29,548/- with total administrative expenses is of Rs.74,59,245/- on total turnover of Rs.167.76 crore which is 0.46% of turnover.

14. The ld. AR submits that there is no separate treasury management department with the assessee company and all the decisions relating to financial advisory are taken by directors itself. The directors remunerations during both the years, is only Rs.18.00 lakhs and at the most small percentage of director salary may be disallowed on account of administrative expenses which may have gone through the decision making to trading management. The ld. AR submits that all the dividend income was credited to the assessee's account by way of NEFT/ECS/RTGS and does not involve in human efforts which needs to incur any expenses. To support his all other submission, the ld. AR of the assessee relied upon the assessee relied upon the decision of Bombay Tribunal in the case of DCIT vs. Reliance Industries Ltd., in ITA Nos.2587 & 2588/Mum/2022, dated 18.10.2023 and in ACIT vs. Crompton Greaves Ltd. (2019) 111 taxmann.com 338 (Mumbai Trib.)
15. On the disallowance relating to 80G, the ld. AR of the assessee supported the order of ld. CIT(A). The ld. AR submits that all the details registration under 80G is duly reflected on the receipt of trust. Further, the copy of their approval/renewal letters from CIT(Exemption) under section 12AA as well as 80G(5) is also placed

on record. The ld. CIT(A) on verification of facts, grant to relief to the assessee.

16. We have considered the rival submission of both the parties and have gone through the orders of lower authorities carefully. Ground No. 1 and 2 relates to disallowance under section 14A. As recorded above, the Assessing Officer while passing the assessment order made disallowance of Rs.2.70 crore by invoking the provision of amending Rule 8D. The Assessing Officer considered the opening investment as on 31.03.2017 as well as closing investment on 31.03.2018 thereby worked out average value of investment at Rs.254.27 crore and thereby made disallowance of 1.00 % of annual monthly average. The Assessing Officer also added direct expenses of Rs.16,57,950/- claimed by the assessee thereby made total disallowance of Rs.2.70 crore. We find that ld. CIT(A) granted relief to the assessee by following the order of his predecessor for AY.2013-14 and 2014-15. We find that the ld. CIT(A) applied the ratio of decision of his predecessor without appreciating the fact that Rule 8D of the amended with effect from June, 2016 and that provision of amended Rule 8D is applicable for both the year under consideration. The ld. CIT(A) followed his order of AY 2018-19 in AY.2017-18 as well. We find that order of ld. CIT(A) is not in consonance with the amended provision of Rule 8D, therefore we decided to adjudicate the issue independently on the basis of contention of both the parties.

17. Section 14A deals with the expenditure incurred in relation to income not includible in the total income. As per the language of the section, no deduction is allowable in respect of expenditure incurred by the assessee in relation to income which does not form part of total income. The Assessing Officer is authorized to determine the amount of expenditure incurred in relation to such income which does not form part of income under the Act as per the method prescribed. The method for determination of amount of expenditure in relation to exempt income is prescribed under Rule 8D of Income Tax Rules-1962. The Assessing Officer before invoking the method prescribed under Rule 8D is required to record his satisfaction with the correctness of claim of assessee in respect of such expenditure in relation to exempt income. We are aware of the fact that Rule 8D was inserted with effect from 2008. While inserting Rule 8D initially three clauses were made part of Sub-Rule (2) of Rule 8D. further, Sub-Rule (2) is substituted with effect from 02.06.2016. While substituting Sub-Rule (2), a proviso is inserted therein. As per said proviso, the expenditure in relation to income which does not form part of total income shall not exceed the total expenditure claimed by the assessee. In our view, the words “expenditure incurred” in section 14A must be read in context with scheme of the Act and if so read, it is cleared it disallowed certain expenditure incurred to exempt income from being deducted from other income which is includible in the total income for the purpose of chargeability to tax. A return of investment

or pay back is not expenditure incurred in term of Section 14A as has been held by Hon'ble Delhi High Court in ACB India Limited Vs ACIT, 374 ITR 108.

18. The Hon'ble Apex Court in Godrej and Boyce Manufacturing Company Limited vs. DCIT, 394 ITR 449 (SC) held that object of Section 14A is to widen the theory of apportionment of expenditure and allow only that part of expenditure which relates to income forming part of total income as a deduction. Rule 8D prescribed method to be adopted. Before 2008-09 when Rule 8D was not applicable, the Assessing Officer was required to adopt reasonable method in consistent with the facts and circumstances and material on record. We find that Hon'ble Apex Court in Madras Co-Operative Central Land Mortgage Bank Limited vs. CIT, 67 ITR 89 (SC) also held that where the income of cooperative society from its trading activity was exempt from tax, the income of assessee from government securities was apportioned between income earned from investment for trading and non-trading purposes. Thus, we find that in absence of a statutory rule or a departmental instruction, the Hon'ble Apex Court has applied the rule of apportionment as it was consistent with principle of commercial accounting and would apply when there were business and non-business components or trading and non-trading components. We are conscious of the fact that Section 14A was inserted by Finance Act, 2001 to overcome certain judicial pronouncement and to permit the apportionment even when the business was indivisible.

19. Now, again averting to the facts of present case, the primary objection of the Assessing Officer was that the assessee has not shown *suo moto* disallowance for earning exempt income, such observation of the Assessing Officer is not correct. The assessee in its financial statement, which is forming part of audit report has clearly given detail of expenses related to exempt income of Rs.16,57,950/- (page no. 14 of paper book). Besides that, the assessee has *suo moto* disallowance of 1.00 % of dividend income of Rs.4.59 crore, amounting to Rs.4,59,140/-. The assessee also claimed that income from mutual fund and dividend were directly received through ECS or automatically under re-investment option. So far as profit from partnership firm is concerned, the same was received after payment of tax by partnership firm. So far as long term capital gain is concerned, the same is not automatically exempt, the same is exempt on certain condition of investment /applications of such long term capital gain. Before us, the ld. AR of the assessee has given complete details of expenses incurred by assessee for earning taxable income. The total turnover of the assessee for the year under consideration is Rs.127.39 crore and total administrative expenses is Rs.79.58 lakhs only. Surprisingly, the Assessing Officer determined the disallowance under section 14A of Rs.2.70 crore, which is not in consonance with the proviso attached with Rule 8D(2). The disallowance of section 14A cannot swallow the entire expenses administrative or otherwise which were incurred for earning taxable income. The ld. AR in his

submission categorically contended that total administrative expenses claimed by the assessee apart from disallowance related to exempt income is only 0.62% of their total turnover. The ld. AR for the assessee while referring such administrative expenses submitted that the director's remunerations claimed during the year is only Rs. 18.00 lakhs and some percentage of directors' remuneration/salary may be disallowed. We find merit in such submission of ld. AR of the assessee, therefore, we direct that apart from *suo moto* disallowance which consist of Rs.4,59,140/- being 1.00 % of dividend income, direct expenses of Rs.16,57,950/-, and 25% of director's remuneration that is Rs.4.00 lakhs would be sufficient to meet the end of justice, so far is disallowance under Rule 8D is concern. Thus, the total disallowance worked out, will be Rs.25,17,090/-. The assessing officer is directed accordingly. In view of the aforesaid factual and legal discussion, the ground no.1 and 2 of appeal are partly allowed.

20. Ground No.3 relates to disallowance under section 80G. The Assessing Officer disallowed Rs.39,75,000/- for the want of registration certificate under section 80G. We find that ld. CIT(A) while granting relief of Rs.6,75,000/- out of disallowance of donation to Shri Saurashtra Patel Kelwani Mandal and Shri Leuva Patel Pragati Mandal. Before ld. CIT(A), the assessee filed copy of receipt of donations as well as receipt of donation to both the trusts containing registration under section 80G along with their PAN. We find that

copy of certificate under section 80G of both the trusts is placed on record along with the copy of receipt to both the trusts. We further find that the assessee claimed 50% deduction of donation to such trusts. In our view, the ld. CIT(A) on his satisfaction granted deduction under section 80G on verification of facts. In our view, the order of ld. CIT(A) is based on verification of facts, which does not require interference at our end. In the result, ground no.3 raised by Revenue is dismissed.

21. In the result, appeal of Revenue for AY.2018-19 is partly allowed.

ITA NO.226/SRT/2023 FOR AY. 2017-18 (by Revenue):

22. In this appeal, the Revenue has challenged deleting the disallowance under section 14A. The assessee has claimed exempt income from shares and mutual funds of Rs.1.20 crore and profit from partnership firm to Rs.2.55 crore. The assessee during the assessment *suo motu* disallowed Rs.1,10,010 under section 14A. The Assessing Officer invoked the provision of Rule 8D made disallowance of Rs.2.15 crore by considering that assessee had non-current investment of Rs.207.90 crore. The ld. AR of the assessee while making his submission submitted that expenses relating to exempt income that is share trading expenses is only Rs.8,29,549/-, which has been clearly shown in the financial statement being part of audit report. And that assessee's total administrative expenses for the year under consideration is of Rs.75,49,245/- against the turnover of Rs. 165.76

crore which is only 0.46%. Rest of the submission of both the parties were similar as of in AY.2018-19.

23. Considering the fact that, we have enhanced the disallowance under 14A in AY.2018-19 in our detailed discussion, therefore, following the principle of consistency, we direct we direct that apart from *suo moto* disallowance which consist of Rs.1,10,010/- being 1.00% of dividend income, direct expenses of Rs.8,29,549/- and 25% of director's remuneration that is Rs.4.00 lakhs, total disallowance would be Rs.13,39,559/-. In the result, the grounds of appeal raised by Revenue are partly allowed.

24. In the result, appeal of revenue for AY 2017-18 is partly allowed

Order pronounced on 20/11/2023 in the open court.

Sd/-
(DR. ARJUN LAL SAINI)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 20/11/2020

Samanta, PS

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR
6. Guard File

By Order

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Assistant Registrar, ITAT, Surat