

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, MUMBAI  
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.2291/Mum/2023  
(A.Y. 2016-17)**

Coastal Marine Construction And Engineering Limited 402 Madhava BKC Bandra (East) Mumbai – 400051	Vs.	The ACIT Circle 14(1)(2) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAACC1585F		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	H.M. Bhatt

Date of Hearing	14.11.2023
Date of Pronouncement	11.12.2023

आदेश / O R D E R

**Per Amarjit Singh (AM):**

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A) NFAC, dated 27.04.2023 for A.Y. 2016-17. The assessee has raised the following grounds before us:

*“ The Id. CIT(A) erred in upholding the disallowance of Rs.25,45,061/- u/s 14A r.w. Rule 8D.”*

2. The fact in brief is that return of income declaring total income of Rs.92,39,97,180/- was filed on 17.10.2016. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 18.09.2017. During the course of assessment on perusal of the computation of income the assessing officer noticed that assessee has

shown an amount of Rs.50,39,975/- as exempt income, however, the assessee has not made any disallowance u/s 14A in the computation of income. On query, the assessee claimed that it has not debited any expenditure to profit and loss account including fees paid for managing port folio/investment advisory fees and STT, therefore, no disallowance u/s 14A was warranted. However, AO has not accepted the submission of the assessee and referred provisions of Sec. 14A and stated that for the purpose of computing the total income no deduction should be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income. Therefore, the assessing officer has computed the disallowance u/s 14A in accordance with the provisions of Rule 8D of the I.T Rule to the amount of Rs.27,66,041/-.

3. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has restricted the addition to the extent of Rs.25,45,061/- under Rule 8D(2)(iii) of the I.T. Rule.

4. Heard both the sides and perused the material on record. The assessing officer has made disallowance under Rule 8D(2)(iii) to the amount of Rs.25,45,061/- being administrative expenditure incurred for earning the exempt income. However, the ld. Counsel submitted that for the purpose of making disallowance of expenses u/s 14A as per Rule 8D only those investments were to be considered for computing average value of investment on which exempt income was earned during the year under consideration whereas the assessing officer has taken into consideration the whole investment including such investment from which interest income has not been received during the year. We consider that as per provision of Sec. 14A r.w.Rule 8D only those investment are to be considered for computing average value of investment which yielded exempt income during the year relevant

assessment year and not the whole investment made during the year. In this regard, we have also perused the decision of Hon'ble Delhi High Court in the case of Cargo Motors (P) Ltd. Vs. DCIT (2022) 145 taxman.com 641 (Delhi) wherein held that for the purpose of making disallowance of expenses u/s 14A as per Rule 8D only those investments were to be considered for computing average value of investment which yielded exempt income during relevant year. In view of the above facts and findings we direct the assessing officer to compute the disallowance u/s 8D(2)(iii) after taking into consideration only those investments which yielded exempt income during the year under consideration, therefore, this ground of appeal of the assessee is partly allowed for statistical purpose.

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

Order pronounced in the open court on 11.12.2023

Sd/-  
(Aby T Varkey)  
Judicial Member

Sd/-  
(Amarjit Singh)  
Accountant Member

Place: Mumbai  
Date 11.12.2023  
PS. Rohit

**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.