

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "A" BENCH : PUNE

[THROUGH HYBRID HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.840/PUN./2023  
Assessment Year 2018-2019

The DCIT, Circle-8, Pratyakshakar Bhavan, Near Akurdi Railway Station, Dr. Ambedkar Road, Akurdi, Pune. PIN – 411 044. Maharashtra.	vs.	M/s. Mahale Holding (India) Pvt. Ltd., S.No.4270, 2 <sup>nd</sup> Floor, One Elpro Park, Chinchwadgaon, PUNE. Maharashtra. PIN – 411 033. PAN AAGCM2208M
(Appellant)		(Respondent)

For Revenue :	Shri Ramnath P. Murkude
For Assessee :	Shri Darpan Kirpalani

Date of Hearing :	02.05.2024
Date of Pronouncement :	14.05.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee's appeal for assessment year 2018-2019, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1053061648(1), dated 22.05.2023, involving proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The Revenue pleads the following substantive grounds in the instant appeal :

1. *“On facts and in the circumstances of the case and in law, the Id. CIT(A) erred in deleting the disallowance mad by AO u/s 14A of the IT Act, 1961 when Rule 8D(2)(ii) empowers the AO to determine and disallow the amount of expenditure, which is not directly related to exempt income not includible in total income.*
2. *On facts and in the circumstances of the case and in law, the Id. CIT(A) erred in deleting the disallowance made by the Assessing Officer u/s 14A rwr 8D(2)(ii) by holding that such disallowance cannot be made in respect of investments made by the assessee from which no exempt income has been earned by the assessee during the relevant year, ignoring the newly inserted Explanation to Sec. 14A of the Act, by the Finance Act, 2022.*
3. *The Order of the Id. CIT(A) be set aside and that of the AO be restored.*
4. *The appellant craves leave to add, amend or alter any of the above grounds of appeal.”*

3. Learned DR vehemently argued in light of the Revenue's pleadings that the NFAC herein has erred in law and on facts in holding that the Assessing Officer's sec.14A read with Rule 8D disallowance of Rs.1,99,41,255/- in the course of assessment has only to be restricted qua those investments which had yielded any exempt income in the relevant previous year.

4. Faced with this situation, we note that the Revenue's instant sole substantive grievance is no more res integra as the tribunal's recent coordinate bench's order in assessee's case itself ITA.No.95/PUN./2022 for assessment year 2017-2018 has already rejected its very arguments as under :

*"5. We heard the rival submissions and perused the material on record. In the present case, the only issue relates to the computation of amount of disallowance made under sub-rule (iii) of Rule 8D(2) of the Rules. It is settled position of law for the purpose of computing the average value of investments as envisaged under Rule 8D(2)(iii), the value of only those investments which yielded the exempt income alone has to be considered in view of the decision of the Hon'ble Delhi High Court in the case of in the case of Joint Investments Pvt. Ltd. vs. CIT, 374 ITR 694 (Delhi), the decisions of Hon'ble Madras High Court in the cases of ACB India Ltd. Vs. Assistant Commissioner of Income Tax, Marg Ltd. Vs. CIT, 318 CTR (Mad.) 148 and CIT Vs. Shriram Ownership Trust 318 CTR (Mad.) 233 and also by the Hon'ble Karnataka High Court in the case of Pragathi Krishna Gramin Bank Vs. Jt.CIT, 95 Taxman.com 41 (Kar.). Therefore, we remand the issue of computation of disallowance under Rule 8D(2)(iii) to the file of the*

*Assessing Officer with the direction to compute the value of those investments which yielded the exempt income alone for the purpose of computing the average value of investments. Thus, we find the order of the ld. CIT(A) is just, proper and reasonable on this score and does not warrant any interference by us.”*

5. The Revenue is fair enough in not pinpointing any specific distinction *qua* the relevant facts in both these assessment years.

6. We thus adopt judicial consistency to reject the Revenue’s sole substantive grievance in very terms. Ordered accordingly.

7. This Revenue’s appeal is dismissed in above terms.

Order pronounced in the open Court on 14.05.2024.

Sd/-  
[DR. DIPAK P. RIPOTE]  
ACCOUNTANT MEMBER  
Pune, Dated 14<sup>th</sup> May, 2024

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

VBP/-  
Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, “A” Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.