

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

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

AND

SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

ITA NO. 4381/MUM/2023 (A.Y: 2017-18)

GROWWELL MERCANTILE PRIVATE LIMITED 509-510 Navratan Premises Co-Op Society Limited PD Mello Road, Carnac Bunder Mumbai - 400009 PAN: AACCG1082F	v.	ACIT-15(1)(2) Aayakar Bhavan, M.K. Road Mumbai - 400020
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Dr. K. Shivaram & Shri Rahul Hakani
Department Represented by	:	Shri Paresh Deshpande
Date of conclusion of Hearing	:	08.05.2024
Date of Pronouncement	:	10.05.2024

ORDER

PER NARENDRA KUMAR BILLAIYA (AM)

1. This appeal by the assessee is preferred against the order dated 16.10.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2017-18.

2. The solitary grievance of the assessee is that the Ld. CIT(A) erred in confirming the disallowance of ₹.1,22,39,954/- made by the Assessing Officer under section 14A r.w. Rule 8D of I.T. Rules.

3. During the course of the scrutiny assessment proceedings and on perusal of the balance sheet the Assessing Officer noticed that assessee made investment to the tune of ₹.122,39,95,434/-. The Assessing Officer presumed that the main intention to invest in shares is to earn exempt income. Invoking provisions of section 14A r.w. Rule 8D of I.T.Rules the Assessing Officer computed the disallowance at ₹.1,22,39,954/-.

4. Assessee carried the matter before Ld. CIT(A) but without success.

5. Before us, it has been brought to our notice that assessee has no exempt income during the year under consideration, therefore, there is no question of any disallowance under section 14A r.w. Rule 8D of I.T.Rules.

6. We have given a thoughtful consideration to the order of the Ld.CIT(A). The undisputed fact is that during the year under consideration the assessee has no exempt income, therefore, in our

considered opinion no disallowance is to be made under section 14A r.w. Rule 8D of I.T. Rules. For this proposition, we draw support from the decision of the Hon'ble Gujarat High Court in the case of CIT *v.* Corrttech Energy Pvt Ltd., [372 ITR 97] and the decision of the Hon'ble Delhi High Court in the case of Cheminvest Limited *v.* CIT [378 ITR 33]. Respectfully following the ratio laid down by the Hon'ble High Court, we direct the Assessing Officer to delete the impugned disallowance of ₹.1,22,39,954/-. Appeal of the assessee is accordingly allowed.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 10th May, 2024.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Mumbai / Dated 10.05.2024
Giridhar, Sr.PS

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum