

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "B" Bench, Mumbai.

Before Shri Amit Shukla (JM) & Shri Omkareshwar Chidara (AM)

I.T.A. No. 3939/Mum/2023 (A.Y. 2012-13)

DCIT, Circle 7(1)(1) Room No. 126 1 <sup>st</sup> Floor, Aayakar Bhavan, M.K. Road Mumbai-40 0020.	Vs.	M/s. NSE Clearing Ltd. C-1, Block G, Exchange Plaza, Bandra Kurla Complex, Bandra East Mumbai-400 051.  PAN : AAACN2642L
(Appellant)		(Respondent)

Assessee by	Shri Jehengir Mistri & Shri Harsh Kapadia
Department by	Shri Ashok Kumar Ambastha
Date of Hearing	12.06.2024
Date of Pronouncement	05.08.2024

ORDER

Per Omkareshwar Chidara (AM) :-

The only ground of appeal raised by Revenue in the above captioned appeal is whether the Commissioner of Income Tax (Appeals) (the Ld. CIT(A) for short) is justified and correct in deleting addition made by learned Assessing Officer (Ld. AO for short) u/s. 14A in the facts and circumstances?

2. As the Ld. CIT(A) deleted the addition made by Ld. AO, the following grounds of appeal are raised by Revenue :

A. Whether on the facts *said* circumstance of the ease and in law, the Ld. CIT(A) justified in holding that the AO has not recorded his satisfaction in rejecting the suo-moto disallowance made by the assessee u/s 14A of the Act and me not pointed out any specific expenditure which was not considered by the assessee by working out the disallowance u/s 12A of the Act?"

B. "Whether on the facts and circumstance of the case and in law, the Ld, CIT(A) is justified in holding that the AO did not record satisfaction for making disallowance u/s 14A of the Act without appreciating the fact that the AO rejected the suo-moto disallowance made by the assessee by categorically relying upon the decision of the Hon'ble Bombay High Court in the case of Godrej & Boyce wherein it has been clearly held that from AY 2008-09 onwards Rule 8D would apply and no estimate can be restored to?"

3. From the assessment order, it can be seen that Ld. AO made an addition of Rs. 1,83,82,695/- u/s. 14A of the Act as the assessee company has earned certain tax free income representing interest on tax fee bonds of Rs. 8,84,51,139/- and dividend from mutual funds of Rs. 20,03,44,866/-. As the provisions of section 14A are attracted, the assessee company made suo-moto disallowance of Rs. 52,28,574/- in the computation u/s. 14A. As the disallowance made by assessee company is not as per Rule 8D of Income Tax Rules, 1962, the Ld. AO computed the disallowance u/s. 14A as per the procedure laid down in Rule 6D. The Ld. AO is of the view that to manage the funds of more than Rs. 300 crores, the assessee company should have engaged large number of people and other managerial expenditure should be taken into account. In the opinion of Ld. AO, Rule 8D is applicable and made an addition u/s. 14A r.w.r 8D which comes to Rs. 1,83,87,695/- (Balance disallowance after taking into consideration the disallowance made by assessee company suo-moto). The Ld. AO placed reliance on the decision of Hon'ble Jurisdictional High Court in the case of M/s. Godrej and Boyce Ltd.

4. Aggrieved by the addition of Ld. AO, the assessee company filed an appeal to the Ld. CIT(A) and the Ld. CIT(A) deleted the addition of Ld. AO by adjudicating that the decision relied upon by Ld. AO was reversed by Hon'ble Supreme Court and by quoting some other decisions.

5. Aggrieved by the deletion of addition made by the Ld. CIT(A), the Revenue filed an appeal with the above grounds of appeal mentioned in para 2.

6. During the hearing before the Tribunal, the Ld. DR relied on the order of Ld. AO and submitted that the addition may be confirmed. Per contra, Ld. AR of the assessee has mentioned that the similar issue was already covered in its favour and the Ld. CIT(A) followed the decision of Hon'ble ITAT in its own case held in the earlier year. The Ld. AR has filed a copy of ITAT decision in its own case of earlier year and argued that as the issue is same and covered in its favour and submitted that the order of the Ld. CIT(A) is correct and the appeal of Revenue may be dismissed.

7. Heard both sides and perused the order of ITAT in its own case. As the facts and circumstances are same, respectfully following the decision of ITAT in assessee's own case in earlier year, ITA No. 6726/Mum/2019 A.Y. 2010-11 dated 3.1.2022, it is held that the addition of the Ld. AO is not correct and the order of the Ld. CIT(A) is confirmed.

8. The appeal of Revenue is dismissed.

Order pronounced in the open court on 5<sup>th</sup> August, 2024.

Sd/-  
(Amit Shukla)  
Judicial Member

Sd/-  
(Omkareshwar Chidara)  
Accountant Member

Mumbai : 05.08.2024

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS