आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./**I.T.A. No.1673/Chny/2024**
निर्धारण वर्ष/Assessment Year: 2018-19

The Assistant Commissioner of Income Tax, Corporate Circle 1(1), Chennai 600 034.	Vs.	Capital First Limited Now merged with IDFC First Bank Limited, KRM Tower, 7th Floor, No. 1, Harrington Road, Chetpet, Chennai 600 031. **[PAN:AACCK6863C]**
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri V. Nandakumar, CIT
प्रत्यर्थी की ओर से/Respondent by	:	Shri Ketan Ved, C.A.
सुनवाई की तारीख/ Date of hearing	:	04.09.2024
घोषणा की तारीख /Date of Pronouncement	:	11.09.2024

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order dated 14.03.2024 passed by the ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2018-19.

2. We find that this appeal was filed with a delay of 21 days. The Appellant-Revenue filed an affidavit stating reasons for the said delay. On perusal of the same and upon hearing both the parties, we find that the

reasons stated by the Revenue are bonafide, which really prevented in filing the appeal in time. Thus, the delay of 21 days is condoned.

3. Grounds No. 1 & 4 raised by the Revenue are general in nature and require no adjudication.

4. Grounds No. 2 & 3 raised by the Revenue in challenging the action of the ld. CIT(A) in restricting the disallowance made for the purpose of section 14A of the Income Tax Act, 1961 ["Act" in short] by applying method of Rule 8D in the facts and circumstances of the case.

5. Brief facts emanating from the record are that the assessee is a company conducts its activities under the name and style of Capital First Limited. The assessee filed return of income declaring a total income of ₹.412,23,25,230/-. The said return of income was duly processed under section 143(1) of the Act. Subsequently, the case was selected for scrutiny and notices under section 143(2) and 142(1) of the Act were issued. According to the Assessing Officer, the assessee made investment during the year under consideration and earned exempt income of ₹.43,83,775/-. The Assessing Officer asked the assessee to furnish the details of expenditure incurred to earn such exempt income. The assessee replied to the same. The Assessing Officer, by recording

satisfaction with reference to the provisions of section 14A of the Act, method under Rule 8D and CBDT Circular No. 5 of 2014, determined the disallowance at 1% taking into account annual average of monthly averages of opening and closing balance of the value of investment, income from which does not or shall not form part of total income at ₹.1,86,78,511/- [1,98,78,511 – 12,00,000]. The ld. CIT(A) proceed on the premise that no disallowance shall exceed the exempt income and confirmed the disallowance made by the assessee of its own to an extent of ₹.12,00,000/-.

6. Before us, the ld. DR Shri V. Nandakumar, CIT submits that the ld. CIT(A) did not consider the method under Rule 8D as came into force w.e.f. 01.06.2016. He argued that CBDT issued Circular No. 5 of 2014 clarifying the disallowance of expenditure should be made even if no exempt income earned. The Assessing Officer rightly applied the said clarification issued by the CBDT. Further, he invited our attention to the method under Rule 8D w.e.f. 01.06.2016. He submits that Rule 8D(2) provides that an amount equal to 1% of annual average of monthly average of opening and closing balances of the value of investment, income of which does not or shall not form part of total income. The ld. DR drew our attention to the assessment order at page 3, wherein, the

assessee provided the details and the Assessing Officer proceeded to apply Rule 8D(2)(ii) and determined the disallowance under section 14A of the Act. The ld. CIT(A), without considering the effect of Rule 8D(2), which came into force w.e.f. 01.06.2016, held that the disallowance should not except the exempt income, which does not hold good in terms of the amendment to Rule 8D(2). The ld. DR vehemently argued that the ld. CIT(A) erred in restricting the disallowance and prayed to allow ground raised by the Revenue.

7. The ld. AR Shri Ketan K. Ved, C.A. supported the order of the ld. CIT(A) and placed reliance in the case of ACIT v. Vireet Investments Pvt. Ltd. 82 taxmann.com 415 (Del). He argued that the assessee made disallowance of its own to an extent of ₹.12,00,000/-, which is correct. He also drew out attention to page No. 1 of the paper book and argued that the disallowance made by the assessee on its own is correct in respect of the dividend income earned. Further, he drew our attention to page 51 & 65 of paper book and submits that the assessee earned exempt income only in respect of Tata Coffee Limited and the disallowance made by the assessee is correct and draw our attention to page 63 of paper book. The ld. AR further relied on the decision of Mumbai Bench of ITAT in the case

of DCIT v. Paranjapee Schemes Construction Ltd. in ITA No. 4090/Mum/2023 dated 31.05.2024 for AY 2020-21.

8. Heard both the parties and perused the material available on record. We note that the assessee earned exempt income and made disallowance of its own of ₹.12,00,000/- under section 14A of the Act. We note that at page 63 of the paper book, wherein, under Part J, in response to the AO's query that expenses debited to profit and loss account for earning exempt income as per Schedule BP of ITR is significantly lower as compared to investment made to earn exempt income, it was explained by the assessee that during the year under consideration, the company disallowed ₹.12,00,000/- under section 14A of the Act as per management estimate. As discussed above, this explanation was given to the Assessing Officer vide letter dated 20.03.2020, wherein, we find no break-up was given nor shown any scientific method that may have applied by the assessee in computing the said disallowance, we note that as per management estimate only the assessee made disallowance, which in our opinion, is not justified for the reasons that there was no basis at all to compute the same. The ld. AR placed on record order of Mumbai Bench of ITAT in the case of DCIT v. Paranjapee Schemes Construction Ltd. in ITA No. 4090/Mum/2023 dated

31.05.2024 for AY 2020-21, wherein, the Tribunal held that the disallowance is to be worked out on the basis of investment which yield dividend income during the year and not by factoring the total amount of investment. In the present case, the disallowance made by the Assessing Officer is more than the exempt income. Further, the assessee also failed to show the basis for its-own disallowance. In view of the same, we set aside the order of the ld. CIT(A) in restricting the disallowance to the extent disallowed by the assessee as it is not justified and thus, we remand the matter to the file of the Assessing Officer for fresh consideration to work out the disallowance taking into consideration the investment which yielded exempt income. Thus, the ground raised by the Revenue is allowed for statistical purposes.

9. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced on 11th September, 2024 at Chennai.

Sd/-	Sd/-
(S.R. RAGHUNATHA)	(S.S. VISWANETHRA RAVI)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Chennai, Dated, 11.09.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2.प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.