

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.438/Ahd/2023  
Assessment Year: 2018-19**

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| Black Rock Financial Services Pvt. Ltd.,<br>402, 4 <sup>th</sup> Floor, Sakar-III,<br>Near Old High Court & Income Tax,<br>Ahmedabad – 380 009.<br><b>[PAN – AADCB 9970 G]</b> | Vs.                        | The Principal Commissioner of Income Tax-1,<br>Ahmedabad. |
| (Appellant)  |                            | (Respondent)  |
| Assessee by  | Shri Dipen Shukhadia, AR   |   |
| Revenue by   | Shri Sudhendu Das, CIT(DR) |   |
| Date of Hearing  | 02.09.2024                 |   |
| Date of Pronouncement  | 25.09.2024                 |   |

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER:**

This appeal is filed by the Assessee against order dated 30.03.2023 passed by the Principal Commissioner of Income Tax, Ahmedabad -1 for the Assessment Year 2018-19.

2. The assessee has raised the following grounds of appeal :-

- “1. *The Ld. Principal Commissioner of Income Tax erred in initiating proceedings under Section 263.*
2. *The Ld. Principal Commissioner of Income Tax erred in observing that the Assessing Officer has passed an order under Section 143(3) without proper verification and it is erroneous and prejudicial to the interest of revenue. The issue raised by Ld. Principal Commissioner of Income Tax in respect of disallowance under Section 14A r.w.r. 8D has been thoroughly verified by the A.O. considering the decision in the appellant own case in earlier assessment years.*

3. *The Ld. Principal Commissioner of Income tax has no jurisdiction to pass the order under Section 263.”*

3. The return of income for the Assessment Year 2018-19 has been filed on 06.09.2018 declaring total loss of Rs.11,80,550/-. The assessment was completed under Section 143(3) read with Section 143(3A) & 143(3B) of the Income Tax Act, 1961 on 22.02.2021 determining total income at Rs.2,07,60,084/-, making addition under Section 2(22)(e) and u/s.40(a)(ia) of the Act. The PCIT observed that the assessee accepted short term borrowing of Rs.1,72,76,00,000/- from Fortune Broking Intermediary Pvt. Ltd. However, the assessee did not show any interest income in Profit & Loss Account and, therefore, the proportionate disallowance of interest expenditure should have been made under Section 36(1)(iii) of the Act for advancing loans and advances to related parties without interest by the Assessing Officer. The PCIT further observed that from note 2.6 of Balance Sheet the assessee had non-current investments of Rs.25,00,00,000/- (same closing and opening balance) in shares and the assessee earned exempt income of Rs.2,11,807/-. However, the disallowance under Section 14A read with Rule 8D was made during the current Assessment Year to the extent of exempt income i.e. Rs.2,11,807/- and, therefore, the Assessing Officer should have applied the amended provisions of Section 14A read with Rule 8D. Thus, the PCIT issued notice under Section 263 of the Act dated 07.03.2023 which was subsequently replied by the assessee. After taking cognisance of the reply of the assessee, the PCIT held that the assessee admitted transactions related to Rs.1,72,76,00,000/- but no break-up of utility of such fund was provided by the assessee and this aspect should have been taken into consideration by the Assessing Officer and, therefore, the same needs verification by the Assessing Officer. The PCIT on account of Section 14A read with Rule 8D has also held that the Assessing Officer has not applied his mind in respect of the amended provisions of Section 14A and, therefore, the Assessment Order is prejudicial to the interest of Revenue and is erroneous.

4. Being aggrieved by the Order under Section 263 of the Act, the assessee filed appeal before the Tribunal.

5. The Ld. AR submitted that the fact of Rs.1,72,76,00,000/- received from Fortune Broking Intermediary Pvt. Ltd. was received in the end of the month of March and is in fact in the nature of current account for Securities Trading but the said fund was available with the Company interest-free at the end of the year. Hence, the interest-free advances provided by the assessee Company as mentioned by the PCIT i.e. Ajay S Patel and Fortune Gilts Pvt. Ltd. that of Rs.141.84 Crores are provided to them in the month of March only so the said fund was advanced interest-free in the month of March and received also in the month of March almost on similar dated. Therefore, at the time of interest-free advances provided by the Company, the interest-free fund was available to it though in the nature of current account. The Ld. AR submitted that these details were given to the Assessing Officer and, therefore, the question of disallowance under Section 36(1)(iii) of the Act does not arise. The PCIT was not justified in holding that the Assessment Order is erroneous and prejudicial to the interest of Revenue. The Ld. AR further submitted that the assessee disallowed Rs.2,11,807/- under Section 14A which is to the extent of exempt income and, therefore, the Assessing Officer has rightly taken this into account and has not disallowed as disallowance was done to the extent of exempt income on the part of the assessee. Thus, on this account also the PCIT was not justified in holding that the assessment is prejudicial to the interest of Revenue.

6. The Ld. DR submitted that no enquiry as to these two aspects related to disallowance under Section 36(1)(iii) of the Act was done as well as that of disallowance under Section 14A read with Rule 8D as per the amended provisions. The Ld. DR relied upon the Order of the PCIT.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessing Officer has examined the issue related to the amount of Rs.1,72,76,00,000/- received from Fortune Broking Intermediary Pvt. Ltd. In fact, the submissions given by the assessee during the assessment proceedings that the said amount was received at the end of the month of March and is reflected in the current account as well as the said amount was received in the month of March itself which does not attract interest and, therefore, the issue was properly verified by the Assessing Officer and, therefore, the observation of

the PCIT that the disallowance in respect of Section 36(1)(iii) of the Act should have been done does not come in the picture as all the interest expenses are taking direct nexus of the company's business cannot be disallowed solely on the ground that these are utilised for other than business purpose as reflects to the disallowance under Section 14A. The said issue is also verified by the Assessing Officer in consonance with the *suo motu* disallowance made by the assessee to that of exempt income and disallowance cannot be made more than the exempt income and that the Assessing Officer has taken plausible view in both these issues. The Assessing Officer has thoroughly verified these two issues and, therefore, the PCIT was not justified in exercising the provisions of Section 263 of the Act as this amounts to second opinion/view which is not permissible under Section 263 of the Act.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on this 25<sup>th</sup> September, 2024.

Sd/-  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 25<sup>th</sup> September, 2024**

**PBN/\***

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*