

| आयकर अपीलिय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI RAJ KUMAR CHAUHAN, HON'BLE JUDICIAL MEMBER

I.T.A. No. 4027/Mum/2024
Assessment Year: 2017-18

Asst. Commissioner of Income tax - 6(1)(1), Mumbai	Vs	M/s. Care Ratings Ltd., Mumbai 4 th Floor, Godrej Coliseum Somaiya Hospital Road Mumbai - 400022 [PAN: AAACC4587F]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Ms. Priyanka Jain, A/R
Revenue by :	Shri Krishna Kumar, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 07/10/2024
घोषणा की तारीख/**Date of Pronouncement** : 10/10/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the revenue is preferred against the order dated 14/06/2024 passed by NFAC, Delhi [hereinafter 'Id. CIT(A)'] pertaining to AY 2017-18.

2. The solitary grievance of the revenue is that the Id. CIT(A) erred in granting relief to the assessee company by deleting the disallowance of Rs. 1,90,53,475/- made by the AO u/s 14A of the Act without appreciating that the provision of Rule 8D(2) had changed substantially *w.e.f.* AY 2017-18 and hence the decision of the Hon'ble ITAT for earlier years did not apply to this year.

3. Briefly stated the facts of the case are that the assessee filed its return of income on 30/11/2017 declaring total income at Rs. 181,74,17,720/-. The return was processed u/s 143(1) of the Act and subsequently selected

for scrutiny and accordingly notices were issued and served upon the assessee.

4. During the course of scrutiny assessment proceedings, the AO noticed that the assessee has earned dividend income of Rs. 9,78,13,306/- which is claimed as exempt u/s 10 of the Act. The AO found that the assessee has not made any disallowance u/s 14A r.w.r 8D and, therefore, asked the assessee to explain why the disallowance u/s 14A r.w.r. 8D should not be done for the exempt income shown. The assessee filed detailed reply claiming that it did not incur any expenditure towards the earning of any exempt income and all expenditure debited to profit and loss account are incurred for the rating business of the company and they are directly or indirectly related to earning tax free income and hence no part of expenditure incurred are required to be allocated to earning tax free income.

4.1. Reply of the assessee was dismissed by the AO who proceeded by computing the disallowance as per Section 14A r.w.r 8D and computed the disallowance at Rs. 1,90,53,475/-.

4.2. Assessee carried the matter before the Id. CIT(A) and vehemently contended that they are not bank loans or unsecured loans and the assessee has sufficient, own interest free funds to make the impugned investments. After considering the facts and the submissions, the Id. CIT(A) was convinced that no interest-bearing funds were invested in mutual funds or bonds by the assessee since the assessee possessed sufficient funds of its own. Drawing support from the decision of the Hon'ble Jurisdictional High Court in the case of *HDFC Bank* reported in

383 ITR 52 and the Hon'ble Supreme Court in the case of *South Indian Bank V/s CIT (2021) 438 ITR 1 (SC)*, deleted the entire addition made by the AO.

5. Before us, the Id. D/R fairly submitted that the assessee has no interest-bearing funds and, therefore, there is no question of application of Rule 8D(1) but Rule 8D(2) squarely applies and the assessee ought to have made certain disallowance *suo-moto* in respect of administrative expenses. The Id. Counsel for the assessee reiterated what has been stated before the lower authorities.

6. We have carefully considered the orders of the authorities below. There is no dispute that the investments were not made out of any borrowed funds or interest-bearing funds but we find that the AO has also not made any disallowance on this aspect. In our considered opinion, it cannot be ruled out that some employees/director must have invested some time in making the investment decisions. Therefore, to that extent, reasonable disallowance needs to be made. Considering the nature of business of the assessee, we are of the considered view that a disallowance of Rs.10 Lakhs, should meet the ends of justice. We, therefore, direct the AO to restrict the disallowance to Rs.10 Lakhs.

7. In the result, appeal of the revenue is partly allowed.

Order pronounced in the Court on 10th October, 2024 at Mumbai.

Sd/-

(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 10/10/2024

**S.P.*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai