

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'ए' अहमदाबाद।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, AHMEDABAD**

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER**  
**AND**  
**SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

**ITA No.671/Ahd/2024**  
**Assessment Year : 2016-17**

Rasna Private Limited 905, Atlanta Tower Gulbai Tekra Ahmedabad 380015. <b>PAN : AAACW 4408 M</b>  (Appellant)	Vs.	ACIT, Cir.3(1)(2) Ahmedabad.   (Respondent)
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Assessee by	:	Shri P.F. Jain, AR
Revenue by	:	Shri B.P. Srivastava, Sr.DR

सुनवाई की तारीख/Date of Hearing : 05/11/2024  
घोषणा की तारीख /Date of Pronouncement: 08/11/2024

**आदेश/O R D E R**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

This appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 14.03.2024 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short) pertaining to Assessment Years 2016-17.

2. The grounds raised by the assessee are as under:

*"1. The learned CIT(A) has erred in law and facts in upholding addition of Rs.54,16,974/- disallowed U/s 14A under the Act without properly appreciating the facts and without properly appreciating legal decisions in this regard submitted before him.*

2. He has erred in law and facts in not appreciating and following the decision of Honourable ITAT, Ahmedabad in the case of assessee itself passed for previous years. On the issue of addition U/s 14A.

3. He has erred in law and facts in wrongly applying the legal decisions mentioned in para 4.4 of his order including CBDT circular dated 11/02/2014.

4. On the facts of the assessee the disallowance U/s 14A computed at Rs.9,22,642/- ought to have been accepted without any variation.

5. The appellant craves, leave, to add, to alter and or modify any ground of appeal.”

3. The solitary issue in the present appeal relates to the disallowance of expenses incurred relating to earning of exempt income, in terms of the provisions of section 14A of the Act.

4. The facts on record reveal that the assessee had earned exempt income amounting to Rs.4,72,69,055/- by way of dividend from Indian companies and interest on government bonds. The details relating to the same are reproduced at page no.10 of the Id.CIT(A)'s order as under:

“1) Dividend from Indian Company:	20, 67,540.
2) Interest on IIFCL Bonds.	1, 03, 23, 195.
3) Interest on PFC Bonds.	42, 93,000.
4) Interest on IRFC Bonds.	1, 12, 74,705.
5) NABARD Bonds Interest.	1, 31, 80,804.
6) NHB Bond Interest.	46, 33,999.
7) Interest on REC Bonds.	14, 95,812.

**Total Rs.4, 72, 69,055.”**

5. The assessee had *suo moto* made disallowance under section 14A of the Act of the expenses incurred in relation to earning of exempt income amounting to Rs.9,22,641/- which related to the following expenses:

S.No.	Particulars	Expenses amount (in Rs.)	Ratio	Disallowed amount (in Rs.)
	Allocation from head office telephone expenses	1230019	18.30%	225093
	Salary of one clerk	554210	18.30%	101420
	Allocation from bank overdraft interest	3257528	18.30%	596128
			<b>TOTAL</b>	<b>922641</b>

6. The AO however worked out the disallowance invoking Rule 8D of the Income Tax Rules, 1962 and computing the disallowance as per the formula prescribed therein. Thus a total disallowance of Rs.63,39,616/- was computed , the calculation of which is as under:

I	The amount of expenditure directly related to income which does not form part of total income	9,22,642/-
1.	Interest Expense (A)	Rs.52,92,000/-
2.	Average Investment as on 31/03/2016 in Mutual Fund/ shares from where exempted Income generated(B)	Rs.73,32,28,583/-
3.	Average assets as on 31/03/2016 in current assets (C)	Rs.2,21,62,30,330/-
II.	Disallowance of interest $A*B/C$	Rs.17,50,831/-
III.	(iii) an amount equal to 0.5% of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the	Rs.36,66,143/-

	<i>assessee, on first day and the last day of the previous year</i>	
IV.	<i>Total Disallowance (I+II+III)</i>	<b>Rs.63,39,616/-</b>

7. Since the assessee had *suo moto* disallowed an amount of Rs.9,22,641/- under section 14A of the Act, the AO disallowed a further sum of Rs.54,16,974/- in the assessment framed under section 143(3) of the Act.

The same was confirmed by the Id.CIT(A).

8. On going through the order of the Id.CIT(A), we find that the same is clearly not sustainable in law, since he has completely ignored the submissions made by the assessee before the Id.CIT(A) that identical disallowance made in the case of the assessee for assessment year 2010-11 came up for consideration by the ITAT, who rejected the invocation of the Rule 8D in the case of the assessee and considered it prudent and fit, considering the facts of the case before it, to restrict the disallowance to Rs.7 lakhs only. These submission of the assessee, we find, are reproduced at page no.12 of the Id.CIT(A)'s order as under:

*"Then there will remain disallowance of Rs.36, 66, 143/- being 0.5% of average value of investments. But as discussed above according to assessee no such disallowance should have been made. This issue of disallowance u/s. 14A in the case of assessee has also come before Hon'ble ITAT and as per Para 27 of the order of ITAT dated 30/01/2019 for A.Y. 2010-11 in ITA No. 2334/A/2015, it has been held as under and towards administrative expenses only amount of Rs.7 lakh was sustained.*

*"We have heard the rival contention and perused the material on record carefully. It is noticed that assessee is having sufficient interest free fund as against the Investment made on which exempt income was earned. We have gone through working of*

*disallowance made u/s. 14A r.w. Rule 8D of the IT. Rule and it is noticed that major part of the disallowance was made by the assessing officer to the amount of Rs.20,57,946/- being 0.5% of the average investment for administrative expenditure. After considering the nature of Investment made in the form of Bonds & securities we are of the view that it will be appropriate to restrict the disallowance on account of administrative expenses Incurred towards earning exempt Income to the amount of Rs.7 lacs. Accordingly, the appeal of the assessee is partly allowed."*

*In view of above facts, considering the factual mistake in computation, order of Gujarat High Court and order of ITAT the disallowance made may kindly be deleted."*

9. Surprisingly, we find that the ld.CIT(A) not only shut his eyes to this clear submission made by the assessee before it, but went on to confirm the disallowance by following the order of the ld.CIT(A) in the case of the assessee for the Asst.Year 2010-11 itself, which the assessee in very clear words had pointed out had been reversed and decided in favour of the assessee by the ITAT. The finding of the ld.CIT(A) are at para 6.2 as under:

*"6.2. Disallowance of Rs.54,16,974 u/s.14A of the Act.*

*The appellant has contested against the addition made by the AO on this count on the ground that the interest free funds available with the assessee are more than the total investments in shares/debentures/bonds. This issue in appellant's own case for assessment year 2010-11 has been adjudicated by the Commissioner of Income Tax(Appeals) considering the contention of the appellant against the addition made by the AO in the instant assessment year and decided the case in favour of the department. The relevant extracts from the decision cited supra are reproduced below ("4.3 & 4.4"):-"*

10. It is clear from the above that the ld.CIT(A)'s order passed confirming the disallowance under section 14A of the Act has resulted in grave injustice to the assessee. There cannot be a better instance of rendering injustice to an assessee by an appellate authority.

11. Be that so, besides, the issue being covered in favour of the assessee by the decision of the ITAT in Asst.Year 2010-11, during the course of hearing before us, it was pointed out that that the ITAT had followed its decision in Asst.Year 2010-11 for the subsequent assessment years also, i.e. Asst.Year 2013-14, 2014-15 and 2015-16 in its order passed in ITA No.528 and 2870/Ahd/2017 and ITA No.1788/Ahd/2018 dated 17.8.2021. Copy of the order was placed before us.

Noting the above facts, we do not find any merit in the addition confirmed by the Id.CIT(A) pertaining to the disallowance of expenses under section 14A of the Act amounting to Rs.54,16,974/-.

12. Having said so, we find that in Asst.Year 2010-11, the ITAT held that considering the nature of investment made by the assessee in bonds and securities, the disallowance made on administrative expenses by invoking Rule 8D was not proper. The disallowance made in the said year on the said account amounted to Rs.20,57,946/- ,being 0.5% of the average investment computed as per Rule 8D of the Rules. Accordingly, the ITAT restricted the disallowance of administrative expenses to the extent of Rs.7 lakhs. In the subsequent years, the ITAT followed the decision in the case of the assessee for Asst.Year 2010-11, and accordingly restricted the disallowance of administrative expenses on a proportionate basis, noting the quantum of disallowance computed as per the Rule 8D as under:

Asstt.Year	Disallowance of administrative exps.as per the Rule 8D	Suo moto disallowance	Disallowance restricted by the ITAT.
2013-14	46,54,415/-	4,75,768/-	14 lacs
2014-15	56,04,892/-	12,55,562/-	15 lacs
2015-16	32,14,661/-	2,77,536/-	12 lacs

In the impugned order, the disallowance of expenses made by the AO is to the tune of Rs.36,66,143/-. The assessee has *suo moto* made disallowance of Rs.9,22,642/- and following the ratio down by the ITAT for working out the disallowance of administrative expenses under section 14A of the Act, we direct the disallowance of Rs\_ 12 lacs to be made under section 14A of the Act. The assessee be granted benefit of *suo moto* disallowance already made by it and only the balance be disallowed while computing the income of the assessee.

13. In the result, the appeal of the assessee is partly allowed in above terms.

**Order pronounced in the Court on 8<sup>th</sup> November, 2024 at Ahmedabad.**

**Sd/-**

**(SIDDHARTHA NAUTIYAL)  
JUDICIAL MEMBER**

**Sd/-**

**(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 08/11/2024

*vk\**

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

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

आदेशानुसार / BY ORDER,

True Copy

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad