

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई। IN THE INCOME TAX APPELLATE TRIBUNAL 'C' BENCH: CHENNAI श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND SHRI JAGADISH, ACCOUNTANT MEMBER		
आयकर अपील सं./ITA No.2787/Chny/2024 निर्धारण वर्ष/Assessment Year: 2010-11		
The ACIT, Corporate Circle-2, Madurai.	vs.	M/s.Ramco Industries Limited 98A, Auras Corporation Centre, Dr.Radhakrishnan Road, Mylapore, Chennai-600 004.
		[PAN: AAACR-5284-J]
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Ms.R.Anita,Addl.CIT
प्रत्यर्थी की ओर से /Respondent by	:	Mr. S.Muralidhar, F.C.A & Mr.J.Prabhakar, F.C.A
सुनवाईकीतारीख/Date of Hearing	:	15.01.2025
घोषणाकीतारीख /Date of Pronouncement	:	05.02.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, (hereinafter in short "the Ld.CIT(A)"), dated 31.08.2024 for the Assessment Year (hereinafter in short "AY") 2010-11.

2. The sole issue that has been raised by the revenue is against action of the Ld.CIT(A) deleting addition/disallowance made u/s.14A read with Rule 8D of the Income Tax Rules, 1962 (hereinafter in short 'Rules').



:: 2 ::

3. Brief facts are that assessee is a company, which filed its return of income (RoI) for AY 2010-11 on 22.09.2010 admitting total income of Rs.54,41,85,120/-, which has been selected for scrutiny and assessment was completed by AO u/s.143(3) of the Act on 01.02.2013, by making an addition of Rs.6,11,31,937/-. In the said addition, the AO has made addition of Rs.25,30,769/- on account of disallowance u/s 14A of the Act which relates to subject matter of the present appeal before us as discussed (infra). In this regard, it is noticed that the Pr.CIT later on has found that the order passed u/s 143(3) was erroneous and prejudicial to the interest of revenue. Therefore, he invoked his revisional jurisdiction u/s.263 of the Act and has set aside the assessment order passed u/s 143(3) and directed to AO to pass fresh assessment. After considering the assessee's submission, the AO passed reassessment order u/s 143(3) r.w.s. 263 on 23/09/2015 wherein he made total additions of Rs.7,39,65,259/-. In the said addition, the AO has made addition of Rs.1,53,64,094/- on account of disallowance u/s 14A of the Act which relates to grounds of appeal present appeal.

3.1. Aggrieved by the order passed u/s 143(3) r.w.s. 263 on 23/09/2015, the assessee filed an appeal before the Ld.CIT(A). The Ld. CIT(A) vide order dated 04/04/2016 has partly allowed the assessee's appeal wherein disallowance made u/s 14A of Rs.1,53,64,094/- was confirmed. Being aggrieved by the order of Ld.CIT(A), the assessee



:: 3 ::

preferred further appeal before this Tribunal; and the Tribunal after considering the facts and circumstances of the case by order dated 14.02.2018 [in ITA No.1876 & 1877/Chny] remitted the issue of disallowance u/s.14A, back to AO with certain directions as noted under:-

"On several earlier occasions we have held that if the assessee has made investment in shares of its sister companies for earning exempt income out of its own non-interest bearing funds then provisions of section 14A will not be applicable because there would be no cost attributable for making investment in ones own concern. Further we find that the Ld. AO has not made a finding as to whether any cost is attributable for earning exempt income in the case of the assessee in order to invoke the provisions of Section 14A and Rule 8D of the Rules. Therefore in the interest of Justice, we hereby remit back the matter to the file of Ld AO for fresh consideration for the both the assessment years."

3.2. The AO upon receipt of the order from Tribunal (supra) on the issue of disallowance made u/s 14A, directed the assessee to furnish relevant details and after considering the relevant documents/ submission, the AO completed assessment u/s 143(3) r.w.s. 254 of the Act on 28/06/2019 and proceeded to compute the disallowance by applying rule 8D(2)(ii) and 8D(2)(iii) by holding as under:

u/r.8D(2)(i) - Rs.NIL

u/r.8D(2)(ii) - Rs.2,77,33,795/-

u/r.8D(2)(iii) - Rs.94,48,174/-

Total amount of disallowance of Rs.3,71,81,969/-



:: 4 ::

3.3 Thus, the AO accordingly computed disallowance of Rs 2,77,33,795/- by way of interest cost relating to investments in terms of Rule 8D(2)(ii) and disallowance of Rs.94,48,174/- by way of administrative expenses under Rule 8D(2)(iii), thereby making aggregate disallowance of Rs.3,71,81,669/-.

3.4 Heard both the parties. It was brought to our notice that, the assessee has own funds of Rs.528 Crs. as against investments of Rs.189 Crs. as on 31.03.2010. In light of the aforesaid fact, the assessee claimed that although it was in possession of mix funds, which included both own & borrowed funds, but since its own funds were much higher than the investment made by it, the question of making disallowance out of interest paid on borrowed funds in terms of Rule 8D(2)(ii) did not arise. The Ld. AR brought to our notice the decision of the Hon'ble Bombay High Court in the case of **HDFC Bank Ltd. v. DCIT (2014) 366 ITR 505** wherein it was held that *"where assessee's own funds and other non-interest bearing funds were more than investment in tax free securities, impugned order passed by the Assessing Officer disallowing a part of interest payments under section 14A of the Act (read with rule 8D(2)(ii) of I.T Rules, 1962) needs to be set aside"*. We also note that the Hon'ble Bombay High Court in the case of **CIT v. Reliance Utilities and Power Ltd. (2009) 313 ITR 340** has laid the proposition of law that, when there are both interest free funds and interest bearing funds, the



:: 5 ::

presumption is that interest free funds were utilized for interest free investment and advances. Such a proposition of law has been upheld by the Hon'ble Supreme Court in the case of CIT v. Reliance Industries Ltd., reported in [2019] 410 ITR 466 (SC); and the Hon'ble Supreme Court in the case of South Indian Bank Ltd. v. CIT reported in [(2021) 130 taxmann.com 178 (SC)] reiterated the position of law and also clarified that it is the assessee who has the right to assert from which part of the mixed funds the investment was made, and the Revenue can't arbitrarily estimate a proportionate figure for disallowance u/s.14A of the Act. Thus, we note from the factual matrix discussed supra, that the assessee had total own funds more than Rs.528 Crs. and the total investment made only to the tune of Rs.189 Crs., including the fresh investments of Rs.NIL made during the year, therefore, the presumption laid down in the case of South Indian Bank Ltd. (supra) and other cases referred supra are clearly applicable. The Ld. DR could not demonstrate that this presumption is factually incorrect, therefore, according to us, the disallowance made under Section 14A read with Rule 8D(2)(ii) of the Rules, was not warranted and is directed to be deleted.

3.5 Coming to the disallowance made under Rule 8D(2)(iii) to the tune of Rs.94,48,174/-, we note that the Ld.CIT(A) has rightly directed the AO to re-compute disallowance under Rule 8D(2)(iii) by excluding



:: 6 ::

investments that didn't yield any exempt income during the relevant year, which decision is in accordance with Special Bench decision of the Tribunal in the case of M/s. Vireet Investments Private Limited (2017)82 taxmann.com 415 (Del Trib) and therefore, we uphold the impugned action of the Ld.CIT(A) and reiterate the principle as held by the Special Bench as well as the co-ordinate Bench of this Tribunal in assessee's sister company's case on this issue as noted under:-

"The special Bench of the Tribunal in Vireet Investments Pvt. Ltd. [2017] 82 taxmann.com 415 (Delhi-Trib.) (SB) has clarified that disallowance under Rule 8D(2)(ii) should be restricted to investments that actually generated exempt income. The Tribunal emphasized that investments which did not yield exempt income during the year should be excluded from the disallowance computation, thereby ensuring that only the relevant investments are considered.

*The Jurisdictional ITAT 'D' Bench, Chennai, in the case of M/s Ramco Cements Ltd. vs. DCIT, Corporate Circle-2, Madurai (ITA Nos. **957/958/Chny/2016** and 2196/Chny/2019 dated 03/07/2014), provided a significant ruling regarding the disallowance under Section 14A of the Income-tax Act, read with Rule 8D(2)(iii) of the Income-tax Rules. The Tribunal held that when making a disallowance under this provision, only those investments that have actually generated exempt income during the relevant financial year should be **considered.**"*

3.6. In the light of the aforesaid discussion, the impugned action of the Ld.CIT(A), is confirmed and dismiss the relevant grounds of appeal of Revenue.



:: 7 ::

3.7 Coming to the action of the Ld.CIT(A) deleting adjustments made by the AO while computing book profit u/s.115JB, the disallowance made u/s. 14A w.r.8D, it is noted that this issue is no longer *res Integra*; and the Ld.CIT(A) has rightly held that section 115JB of the Act is self-contained code for calculating book profit and it doesn't allow for making disallowance u/s.14A to the computation u/s.115JB of the Act. While doing so, the Ld.CIT(A) has rightly relied on the decision of this Tribunal in the case of M/s.Ramco Cements Ltd (formerly known as Madras cement Ltd) vs. DCIT, Circle-2, Madurai vide order dated 03/07/2014) . In view of the above discussion, we do not find any infirmity in the order of the Ld.CIT(A) and therefore, we confirm it and dismiss appeal of the revenue.

4. In the result, appeal of the Revenue is dismissed.

Order pronounced on 05th February, 2025

Sd/-
(जगदीश)
(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 05.02.2025

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ITA No.2787/Chny/2024 (AY 2010-11)
M/s. Ramco Industries Ltd

:: 8 ::

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF