

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'F' BENCH,
NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 7597/DEL/2019 [A.Y 2015-16]

The Addl. C.I.T
Special Range - 9
New Delhi

Vs.

The Hindustan Times Ltd
9th Floor, Hindustan Times House
18-20, Kasturba Gandhi Marg
New Delhi

PAN: AAAC 4962 F

(Appellant)

(Respondent)

Assessee By : Shri Rohit Jain, Adv
Shri Shourya Jain, CA
Shri Deepesh Jain, Adv

Department By : Shri V.K. Dubey, Sr. DR

Date of Hearing : 07.05.2025
Date of Pronouncement : 07.05.2025

ORDER

PER NAVEEN CHANDRA, AM :-

This appeal by the Revenue is directed against the order of the ld.
CIT(A)-9, New Delhi dated 05.08.2019 for A.Y 2015-16.

2. The grounds raised by the Revenue read as under:

"1. "Whether on facts and circumstances of the case, the Ld. CIT(A) is justified in deleting the disallowance u/s 14A r.w.r 8D(2) of Rs. 1,69,79,969/- where assessee has earned dividend income during the relevant previous year."

2. "Whether La CIT(A) has erred in law and on facts in deleting the disallowance of Rs 14,61,992/-on account legal and professional charge in case assessee failed to prove the nexus of such expenses with business activities.

3. "The appellant craves to add, amend, alter or vary, any of the aforesaid grounds of appeal as without prejudice to the other grounds of appeal."

2. At the very outset, the ld. counsel for the assessee vehemently contended that the case of the assessee is squarely covered in favour of the assessee and against the Revenue by the decision of the co-ordinate bench in assessee's own case for A.Ys 2008-09 to 2010-11 vide order dated 31.01.2024 and order dated 02.08.2022 in A.Y 2011-12.

3. Per contra, the ld. DR relied upon the orders of the Assessing Officer. However, the ld. DR conceded to the submissions of the ld. counsel for the assessee that the case is covered in favour of the assessee.

4. We have heard the rival submissions and have perused the relevant material on record. We find force in the contentions of the ld. counsel for the assessee. The co-ordinate bench, on identical issue, in assessee's own case in ITA No. 1629/DEL/2012 for A.Y 2008-09 and others has held as under:

"6.3. At the outset, we find that the ld. AO had rejected the basis of disallowance u/s 14A of the Act submitted by the assessee vide letter dated 17.11.2010 without recording any satisfaction thereon as to why the said basis is incorrect. The assessee had explained that it had taken DGM Accounts salary at 10% as attributable to investment activity and the Director who in charge of taking investment decisions was not paid any remuneration. Further the assessee had the history in its favour wherein in earlier years, the disallowance at Rs 2,00,000/- alone was made by the ld. AO u/s 14A of the Act. Hence the assessee had a proper basis for its suo moto disallowance. The ld. AO did not even bother to discuss about this aspect in the order. The year under consideration

i.e. Asst Year 2008-09 is the first year in which the provisions of Rule 8D of the Income Tax Rules were introduced in the statute. However, the same cannot be applied automatically. As per the provisions of section 14A(2) of the Act read with Rule 8D(1) of the Rules, the Id. AO is duty bound to first record satisfaction in an objective manner having regard to the accounts of the assessee as to why the suo moto disallowance made by the assessee u/s 14A of the Act is incorrect, before resorting to computation mechanism provided in Rule 8D(2) of the Rules. Reliance in this regard has been rightly placed on the decision of Hon'ble Jurisdictional High Court in the case of H T Media Ltd vs PCIT reported in 399 ITR 576 (Del) wherein it was held as under:-

"30. Rule 8D(1) states more or less what Section 14 A (2) of the Act states. It requires the AO to first examine the accounts of the Assessee and then record that he is not satisfied with (a) the correctness of the Assessee's claim of expenditure or (b) the claim made by the assessee that no expenditure has been incurred. Unless this stage is crossed i.e. the stage of the AO recording that he is not satisfied with the clam of the Assessee in the manner indicated i.e. after examining the Assessee's accounts, the question of applying the formula under Rule 8D (2) does not arise. That this is a mandatory prerequisite for applying Rule 8D (2) is fairly well-settled.

34. The Assessee had explained that Rs. 3 lakhs was being disallowed voluntarily as an "expenditure which could be attributable for earning the said income." The Assessee explained that the disallowance had been determined on the basis of cost of finance department in the ratio of exempt income to total turnover. On that basis the disallowance in AY 2005-06 was upheld by CIT (A) at Rs. 1 lakh. The disallowance for this AY was worked out as Rs. 1,42,404/- and since the Assessee had already made a disallowance of Rs. 3 Lacs, no further disallowance was called for

35. In order to disallow this expense the AO had to first record, on examining the accounts, that he was not satisfied with the correctness of the Assessee's claim of Rs. 3 lakhs being the administrative expenses. This was mandatorily necessitated by Section 14 A (2) of the Act read with Rule 8D (1) (a) of the Rules.

36. In para 3.2 of the assessment order, the AO records that, in answer to the query posed by the AO requiring it to produce calculation for disallowances, the Assessee "submitted that they have not incurred any expenditure for earning the dividend income." Thereafter, in para 3.3, the AO records "I have considered the submissions of the Assessee and found not to be acceptable." Thereafter, the AO proceeded to deal with the said provisions of Section 14A and Rule 8D and observed, in para 3.3.1, that making of investment, maintaining or

continuing investment and time of exit from investment are well informed and well coordinated management decisions that, in relation to earning of income, are embedded in indirect expenses. It is then stated in para 3.4 that, in view of the above, the provisions of sub-section (2) of Section 14A and Rule 8D of the Rules are in operation and therefore, will strictly be adhered to by the Assessee. In para 3.6 of the assessment order, after discussing Section 14A(1) read with Rule 8D and referring to the decision of the Bombay High Court in *Godrej and Boyce Mfg. Co. Ltd.* (supra), the AO simply stated that "in view of the facts and circumstances and legal position on the issue as discussed above, I am satisfied that the Assessee had incurred expenses to manage its investments which may yield exempt income, and Assessee grossly failed to calculate such expenses in a reasonable manner to ascertain to ascertain the true and correct picture of its income and expenses."

37. In the considered view of this Court, the above observations of the AO in the assessment order are of a broad general nature not with particular reference to the facts of the case on hand.

6.4. Further the argument of the Id. AR that 97.2% of dividend income had been received by the assessee from strategic investments and the same need to be eliminated is misconceived in view of the decision of Hon'ble Supreme Court in the case of *Maxopp*

Investment Ltd vs CIT reported in 402 ITR 640 (SC). To this extent, the argument advanced by the Id.AR is dismissed.

6.5. We further find lot of force in the alternative argument advanced by the Id. AR that only those investments which had yielded exempt income is to be considered while working out the computation mechanism provided in Rule 8D(2) of the Rules. This view of ours is further fortified by the decision of Hon'ble Jurisdictional High Court in the case of ACB India Ltd vs ACIT reported in 374 ITR 108 (Del) and PCIT vs Caraf Builders & Constructions P Ltd reported in 414 ITR 122 (Del).

6.6. In view of the aforesaid observations, we hold that the Id. AO had not recorded any objective satisfaction having regard to the accounts of the assessee as to why the suo moto disallowance made by the assessee is incorrect. Respectfully following the decision of Hon'ble Jurisdictional High Court in the case of H T Media Ltd referred supra, we hold that the disallowance u/s 14A of the Act should be restricted only to Rs 2,00,000/- for the year under consideration. Accordingly, the Original Ground Nos. 1 & 1.1. and Additional Ground No. 1.2. are disposed of in the abovementioned terms."

5. We find that the Assessing Officer, for the instant A.Y, similarly has not recorded any objective satisfaction. Respectfully following the decision of the co-ordinate bench [supra], we hold that the assessee has

correctly disallowed, suo moto, an amount of Rs. 48,59,087/- u/s 14A of the Act. We, therefore, uphold the decision of the Id. CIT(A) and consequently, Ground No. 1 of the Revenue is dismissed.

6. Ground No. 2 relates to disallowance of legal and professional fees.

7. Brief facts pertaining to this issue are that the legal and professional charges amounting to Rs. 14,61,992/- were paid by the assessee to International Financial Services (IFS), Mauritius for exploring investment opportunities in Mauritius. The Assessing Officer, however, was of the opinion that the expenditure does not relate to the business activities of the assessee and hence, the same is not allowable.

8. On appeal, the Id. CIT(A) deleted the same.

9. Now the Revenue is in appeal before us against this action of the Id. CIT(A) and has relied upon the order of the Assessing Officer.

10. Before us, the ld. counsel for the assessee vehemently stated that, the expenditure has been incurred in normal course and that professional charges were paid to expand the existing business activities of the appellant. It was submitted that with a view of envisaging growth in investment income due to which the assessee hired professional services of IFS to obtain regular information, feedback from professionals in their field of expertise. It was further contended that no asset of any enduring nature whatsoever was acquired by the assessee by way of availing the aforesaid service and that these expenditures related to the existing activities of the assessee. It was contended that similar disallowance made in A.Y 2013-14 has been deleted vide appellate order dated 03.08.2018.

11. We have heard the rival submissions and have perused the relevant material on record. We find that the ld. CIT(A), considering the submissions of the assessee and the assessment order, came to the conclusion that professional fee paid by the assessee was in his view, allowable as deduction. The ld. CIT(A) observed that every business entity has to frequently search out for growth prospects and avenues, so as to look forward for more and more opportunities of increasing its income. In the present case, the assessee has paid professional fee to

some foreign consultants for obtaining consultancies in relation to planning of its future prospect. The expenditure incurred being towards professional charges, is inherently revenue in nature.

12. The ld. CIT(A) was of the view that for any expense to be allowable as deduction, it is not necessary that the said expense must result in immediate gain/ income to the assessee. The ld. CIT(A) placed reliance on the decision of the Hon'ble Supreme Court in the case of S.A. Builders Vs. CIT 288 ITR 1 wherein it has been held that so long as the expenditure is incurred for the purpose of business, such expenditure is allowable as business deduction. We also find that similar addition made was deleted in AY 2013-14 vide order dated 03.08.2018.

13. In view of the above discussion and decision relied upon by the ld. CIT(A) in the case of S.A. Builders [supra], we hold that expenditure incurred towards professional fee is allowable as business deduction and the Assessing Officer is directed to delete the same.

14. In the result, appeal of Revenue in ITA No. 7597/DEL/2019 is dismissed.

Order pronounced in open court on 07.05.2025.

Sd/-

**[SATBEER SINGH GODARA]
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated : 08th MAY, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the typed draft Tribunal Order is placed before the other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial)</i>	
11.	<i>The date on which the file goes for xerox</i>	
12.	<i>The date on which the file goes for endorsement</i>	
13.	<i>The date on which the file goes to the Superintendent for checking</i>	
14.	<i>The date on which the file goes to the Assistant Registrar for signature on the Tribunal order</i>	
15.	<i>Date on which the file goes to the dispatch section</i>	
16.	<i>Date of Dispatch of the Order</i>	