

IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI

**BEFORE SHRI SAKTIJIT DEY, VP AND
SHRI NARENDRA KUMAR BILLAIYA, AM**

ITA No. 2288/Mum/2025
(Assessment Year: 2017-18)

DCIT, Central Circle-1(1) Pratishtha Bhavan, M. K. Road, Mumbai-400 020	Vs.	Edel Finance Company Limited 11 th Floor, Edelweiss House, Off CST Road, Kalina, Santacruz (E), Mumbai-400 098
PAN/GIR No. AAFCA 9652 C		
(Revenue)	:	(Assessee)

Cross Objection No. 116/Mum/2025
(Arising out of ITA No. 2288/Mum/2025)
(Assessment Year: 2017-18)

Edel Finance Company Limited 11 th Floor, Edelweiss House, Off CST Road, Kalina, Santacruz (E), Mumbai-400 098	Vs.	DCIT, Central Circle-1(1) Pratishtha Bhavan, M. K. Road, Mumbai-400 020
PAN/GIR No. AAFCA 9652 C		
(Assessee)	:	(Revenue)

Assessee by	:	Shri Siddhesh Chaugule
Revenue by	:	Shri Hemanshu Joshi

Date of Hearing	:	02.06.2025
Date of Pronouncement	:	05.06.2025

ORDER

Per Saktijit Dey, VP:

The captioned appeal by the Revenue and cross objection by the assessee arise out of a common order dated 23.01.2025, passed by learned Commissioner of Income Tax (Appeals)-47, Mumbai (ld. CIT(A) for short) for the assessment year (A.Y. for short) 2017-18.

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

“1. Whether on the facts and circumstances and in law the ld. CIT(A) was justified in not considering that as per the amended provisions of the Finance Act, 2022, section 14A shall apply to a case irrespective of whether exempt income has accrued or received during the previous year relevant to an assessment year and expenditure has been incurred during the said previous year in relation to such exempt income?”

2. Whether on the facts and circumstances and in law the ld. CIT(A) was justified in not considering that amended provisions of the Finance Act, 2022 has nullified several judgements as relied by the assessee wherein it was held that no disallowance u/s. 14A of the Act could be made in respect of any expenditure incurred in earning any exempt income, in the absence of any exempt income?”

3. Whether on the facts and circumstances and in law the ld. CIT(A) was justified restricting the addition of Rs.2,35,53,078/- made by Assessing Officer u/s. 14A r.w.s. 80D(2)(iii) to Rs.7,67,694/-, without appreciating the facts that there is no evidence furnished by the assessee to prove that the borrowed funds on which interest is paid by it, are directly attributed to earning of taxable income only?”

3. As could be seen from the grounds raised, the solitary dispute is with regard to disallowance made u/s. 14A of the Income Tax Act, 1961 ('the Act' for short) read with Rule 8D.

4. Briefly the facts are, the assessee is a resident corporate entity and is a non-banking financial company (NPFC) engaged in the business of financing and corporate lending. For the assessment year under dispute, the assessee had filed its return of income on 28.11.2017, declaring total income of Rs.90,98,78,600/-. Subsequently, the assessee filed a revised return of income on 29.03.2019, declaring income of Rs.97,07,78,360/-.

5. In course of assessment proceeding, the Assessing Officer (AO), while verifying the return of income filed by the assessee, noticed that in the previous year relevant to assessment year under dispute, the assessee had earned exempt income to the tune of Rs.13,09,11,686/-. Whereas, *suo motu* the assessee has disallowed an amount of Rs.10,55,162/- u/s. 14A, being expenditure attributable to earning of exempt income. Being of the view that the *suo motu* disallowance made by the assessee is not in accordance with section 14A read with Rule 8D, the A.O. proceeded to compute the disallowance by

applying the methodology provided under Rule 8D. While doing so, he disallowed an amount of Rs.2,46,08,240/- under Rule 8D(2)(ii). The assessee having made *suo motu* disallowance of Rs.10,55,162/-, the A.O. made a net disallowance of Rs.2,35,53,078/-. The disallowance so made was contested by the assessee before the first appellate authority *inter alia* on the ground that while rejecting the *suo motu* disallowance made by the assessee, the A.O. has not recorded proper satisfaction in terms with section 14A(2) of the Act. The assessee further submitted that disallowance, if any, u/s. 14A read with Rule 8D(2) has to be made only after considering the investments which have yielded exempt income during the year. In this context, the assessee furnished a fresh computation, computing disallowance under Rule 8D(2) based on the average value of investment which yielded exempt income during the year under consideration.

6. After considering the submissions of the assessee, the first appellate authority, in principle, agreed that the disallowance under Rule 8D has to be made by considering only those investments which yielded exempt income during the year. Since, as per the fresh computation made by the assessee after considering the investments yielding exempt income during the year, the disallowance worked out to Rs.18,22,856/-, whereas, the assessee had disallowed an amount of Rs.10,55,162/-, the first appellate authority made further disallowance of Rs.7,67,694/-.

7. Before us, the learned Departmental Representative ('ld. DR' for short) relied upon the observations of the A.O. Whereas, the ld. Counsel appearing for the assessee reiterated the stand taken before the first appellate authority. Further, he submitted that while

considering identical issue arising in assessee's case in A.Y. 2018-19, the co-ordinate bench has upheld identical decision of the first appellate authority.

8. We have considered rival submissions and perused the materials on record. The crux of the issue is, what should be the average value of investment for computing disallowance of indirect (administrative) expenses under Rule 8D(2). Now, it is fairly well settled through a catena of judicial precedents that while computing disallowance under Rule 8D(2) based on average value of investment, only those investments can be considered, which have yielded exempt income during the year under consideration. In other words, the investments which have not yielded any exempt income during the year, cannot form part of average value of investment. Undisputedly, the first appellate authority, while deleting major part of the disallowance has followed the settled legal position. In fact, while considering the legality of identical view expressed by the first appellate authority in assessee's case in A.Y. 2018-19, the Tribunal, in ITA No. 3025/Mum/2024 dated 10.09.2024 has upheld the decision of first appellate authority. In the impugned assessment year, no factual distinction has been brought to our notice by the Id. DR. That being the case, we do not find any justifiable reason to interfere with the decision of the first appellate authority. So far as assessee's cross objection is concerned, in our view, while rejecting *suo motu* disallowance made by the assessee, the A.O. has recorded his reasoning. Therefore, it cannot be said that the rejection of assessee's computation is without recording any dissatisfaction. In any case of the matter, under identical facts and circumstances, the cross objection filed by the assessee in A.Y. 2018-19 (*supra*) was not entertained. In view of the aforesaid, we are not inclined to entertain the ground raised in

the cross objection. Accordingly, we uphold the decision of the first appellate authority on the issue.

9. In the result, both the appeal and cross objection are dismissed.

Order pronounced in the open court on 05.06.2025

Sd/-

(N. K. Billaiya)
Accountant Member

Mumbai; Dated : 05.06.2025

Roshani, Sr. PS

Sd/-

(Saktijit Dey)
Vice President

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai