

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI MS. PADMAVATHY S, ACCOUNTANT MEMBER
ITA No. 1694/MUM/2025 (AY: 2017-18)**

(Physical hearing)

DCIT, Circle – 2(1)(1), Mumbai Room No. 575, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai – 400020.	Vs	DSP Adiko Holdings Pvt. Ltd. 24-26, 1 st Floor, Cama Building, Dalal Street, Fort, Mumbai – 400023. [PAN: AAACA3438M]
Appellant / Revenue		Respondent / Assessee

Assessee by	Sh. Madhur Agarwal, Advocate
Revenue by	Sh. Annavarani Kosuri, Sr. DR
Date of hearing	10.07.2025
Date of pronouncement	15.07.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by revenue is directed against the order of Ld. CIT(A) / NFAC dated 18.12.2024 for assessment year (AY) 2017-18. The revenue has raised following grounds of appeal:

"1. Whether, on the facts and circumstances of the case and in law, the Ld CIT(A) erred in restricting the disallowance u/s 14A of the IT Act 1961 to the extent of suo-moto disallowance made by the assessee as against the disallowance made by the AO by adopting the method of calculation provided in Rule 8D of the IT Rules thereby overlooking the crucial fact that this method of calculation has been prescribed by the statute from A Y 2008-09 onwards and held as a reasonable method by the Hon'ble Bombay High Court in Godrej & Boyce Mfg Co Ltd 328 ITR 81(Born)?

2. Whether on the facts and under the circumstances of the case and in Law, the Hon'ble CIT(A) is correct in not noticing CBDT Circular No 05/2014 when it is judicially acknowledged that CBDT Circular constitutes important clarifications of legislative intent?

3. The appellant craves the leave to add, amend, alter and/or delete any of the grounds of appeal as above"

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative of the assessee submits that ground of appeal raised by revenue, in fact, covered in favour of assessee by the decision of Tribunal as well as by High court in assessee's own case for A.Y. 2008-09 to 2014-15. The orders of Tribunal in various years have been affirmed by Hon'ble Jurisdictional High court in A.Y. 2011-12 by High Court in Tax Appeal No. 459 of 2017 dated 03.06.2019. The Id. AR of the assessee submits that assessee is a Non-Banking Finance Company (NBFC) and during the year under consideration earned exempt income of Rs. 53,69,242/- on which disallowances under section 14A is to be made. The assessee has made about 10% of *suo moto* disallowance on such exempt income i.e. of Rs. 5,23,459/- in its computation of income. The assessee consistently disallowing about 10% of exempt income in earlier years which have been accepted by Tribunal. The assessing officer disregarded the *suo moto* disallowance and worked out the total disallowance under section 14A of Rs. 9.83 crore being 1.00% of annual average of monthly average of opening and closing balances of value of investment. The assessing officer by allowing set off of already disallowed of Rs. 5,23,459/- made addition of Rs. 9.78 crore. The similar disallowance is made by assessee which has been consistently accepted by Tribunal in all earlier years, copy of which is already been filed. The Id. CIT(A) while allowing the relief to the assessee followed the decision of Bombay High Court in assessee's own case and deleted the disallowance/ addition.

3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of assessing officer. The Id. Sr. DR for the revenue submits that Income Tax Act was enacted in 1961 and Income Tax Rules were framed in 1962. The disallowance under section 14A is to be made as per the formula prescribed in Rule 8D. The assessing officer accordingly made disallowance as per formula prescribed in Rule 8D. The Tribunal as well as High Court has not followed the formula of disallowance in Rule 8D. Therefore, order of assessing officer may be upheld.
4. In the rejoinder submission, the Id. AR of the assessee submits that it is settled position of law that disallowance under section 14A cannot exceed the amount of exempt income. The exempt income during the year was only of Rs. 53,69,245/- and the assessee has already made suo moto disallowances of about 10.00% of exempt income.
5. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We find that exempt income claimed by the assessee is only of Rs. 53,69,245/- against which the assessing officer made disallowance of Rs. 9.78 crore by invoking the provisions of Rule 8D. Similarly, it is settled position in law that disallowance under section 14A cannot be allowed to swallow the entire exempt income. We find that assessing officer disregarded the proviso to Rule 8D(2) wherein it has been specifically mentioned that disallowance under sub-clause (i) &(ii) of Rule 8D(2) should not exceed the total expenditure in profit and loss account. The total expenditure as per profit and loss account is of Rs. 9.95 Crore as mentioned in the grounds of appeal filed before Id CIT(A). The

assessing officer disallowed Rs. 9.97 Crore by invoking provisions of Rule 8D. We find that the Id. CIT(A) allowed relief to the assessee by following the decision of Hon'ble High Court in assessee's own case for A.Y. 2011-12 in ITA No. 5467/M/2024. We find that the order of Tribunal for A.Y. 2011-12 has been consistently followed in A.Y. 2010-11, 2012-13 and 2013-14. The order of Tribunal in AY 2011-12 has been upheld by Jurisdictional High Court. Thus, the grounds of appeal as raised by revenue in the present appeal are consistently held against the assessee in all previous years. No contrary facts or law is brought to our notice to take other view. Therefore, we do not find any merit in the grounds of appeal raised by revenue. In the result, grounds of appeal raised by revenue are dismissed.

6. In the result, the appeal of revenue is dismissed.

Order was pronounced in the open Court on 15/07/2025.

Sd/-

**PADMAVATHY S
ACCOUNTANT MEMBER**

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

MUMBAI, Dated: 15/07/2025
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai