

| आयकर अपीलीय अधिकरण न्यायापीठ, मुंबई |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER  
&

SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER

**I.T.A. No. 873/Mum/2025**

**Assessment Year: 2014-15**

DCIT -1(2)(1), Mumbai	Vs	India Clearing Corporation Limited 25 <sup>th</sup> Floor, P.J. Towers Dalal Street Fort Mumbai - 400001 <b>[PAN: AABCI7140K]</b>
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Niraj D. Sheth, A/R
Revenue by :	Mr. Virabhadra S. Mahajan, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 20/08/2025

घोषणा की तारीख /Date of Pronouncement : 25/08/2025

आदेश/ORDER

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the revenue is preferred against the order dated 19/12/2024 of the NFAC, Delhi [hereinafter the "ld. CIT(A)"] pertaining to AY 2014-15.

2. The solitary grievance of the revenue is that the ld. CIT(A) erred in deleting the addition of Rs. 2,00,28,069/- made u/s 14A r.w.r. 8D, by the AO.

3. Briefly stated the facts of the case are that the assessee filed its return of income on 27/11/2014 declaring total income at Rs. 42,75,21,800/-. The return was selected for scrutiny assessment under CASS and accordingly statutory notices were issued and served upon the assessee. During the course of the scrutiny assessment proceedings, the AO noticed that the assessee has earned Rs. 32,96,91,275/- of exempt income from bonds and mutual funds. The assessee has made a

disallowance of Rs. 19,49,000/- u/s 14A of the Act for earning exempt income. The AO simply observed that the claim made by the assessee is not satisfactory and invoking provisions of Section 14A r.w.r. 8D, the AO computed the disallowance at Rs. 2,00,28,069/-. The assessee challenged the addition before the Id. CIT(A) and reiterated that the *suo moto* disallowance made by it would suffice the disallowance u/s 14A of the Act.

4. After considering the facts and the submissions, the Id. CIT(A) was convinced that the AO has merely stated that the claim made by the assessee is not satisfactory without providing detailed reasoning or objective criteria for his dissatisfaction. Drawing support from several judicial decisions, the Id. CIT(A) directed the AO to delete the disallowance of Rs. 2,00,28,069/-.

5. Before us, the Id. D/R strongly relied upon the assessment order and the Id. Counsel for the assessee reiterated what has been stated before the lower authorities. The Id. D/R supported his submissions by drawing support from the decisions of the Hon'ble High Court of Delhi in the case of *Indiabulls Financial Services Ltd. Vs DCIT [2017] 395 ITR 242 (Delhi)*.

6. We have carefully considered the orders of the authorities below. It is true that the assessee has *suo moto* disallowed Rs. 19.49 Lakhs and has computed the disallowance as under:-

Sr. No.	Particulars	Amount	
1	Infrastructure Expenses (Rent)	38	List of Expenses Considered while calculating amount of disallowance u/s. 14A.
2	Auditors Remuneration	8	
3	Miscellaneous Expenses	37	
4	Electricity Expenses	5	
5	Property Tax Expenses	7	
6	Stamp duty & Registration Charges	5	
7	Finance Cost	16	
8	Depreciation & Amortisation	27	
9	Personnel Deputation Cost	100	
10	Insurance	16	
	<b>SUB-TOTAL (A)</b>	<b>260</b>	

List of expenses not considered while calculating amount of disallowance u/s.

14A(1):

Sr. No.	Particulars	Amount	Reason for non inclusion
1	Amortisation of Preliminary Expenses	9	Related to Company formation expenses and further issue of Share Capital.
2	Clearing House Charges	120	Amount paid towards clearing and settlement activity of the

3	Computer Technology Related Expenses	674	company. Related to Clearing and Settlement Activity of the Company.
4	Directors' Sitting Fees	3	Sitting fees paid to the directors.
5	Legal Fees	41	Legal services are availed for business operations.
6	Loss on Sale/Redemption of Mutual Funds	12	Loss on Sale of Investments, not relevant for 14A working.
7	Professional Fees	35	Professional services are availed for business operations.
8	Provision in Diminution of Current Investments	47	To comply with the Accounting Standards.
9	Service Tax Expenses	58	Statutory payment not related to treasury operations.
10	Travelling Expenses	18	Travelling expenses are incurred for business operations.
11	Employee Benefit Expenses	315	Out of the total expenditure of Rs.315lakhs only Rs.11.44lakhs pertaining to 3 employees of treasury department has been disallowed separately in 14A working and the balance expenditure is related to the business operations of the company.
	<b>SUB-TOTAL (B)</b>	<b>1331</b>	
	<b>TOTAL (A+B)</b>	<b>1591</b>	<b>Expenses as per Profit &amp; loss Account</b>

Working of the disallowance u/s. 14A(1) is as follows:

(Amount in Rs.)

<u>Particulars</u>		<u>Basis</u>	<u>Amount</u>	<u>Amount</u>
A	<u>DIRECT EXPENSES</u>			
	Salary to Staff			11,44,333
B	<u>INDIRECT EXPENSES</u>			
	Infrastructure Expenses (Rent)	Area	38,39,400	
	Auditors Remuneration	Area	8,00,000	
	Miscellaneous Expenses	Area	36,96,802	

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Electricity Expenses	Area	5,30,722	
Property Tax Expenses	Area	6,88,707	
Stamp duty & Registration charges	Area	5,11,581	
Finance Cost	Area	15,88,315	
Depreciation & Amortization	Area	<u>27,14,020</u>	
		<b>1,43,69,547</b>	
<b><u>Basis of Allocation</u></b>			
Total area occupied by the appellant in square feet	Sq. feet	3,770	
Total area occupied by the Treasury Section	Sq. feet	100	
(Rs.1,43,69,547*100/3770)			<b>3,81,155</b>
Personnel Deputation Cost	Salary	1,00,00,000	
Insurance	Salary	<u>16,18,771</u>	
		<b>1,16,18,771</b>	
<b><u>Basis of Allocation</u></b>			
Treasury department's salary (3.64% Approx)	Salary	11,44,333	
Employee Benefit Expenses (100%)	Salary	3,14,45,959	
(Rs.1,16,18,771*3.64%Approx)			<b>4,22,812</b>
<b>Total Amount Inadmissible u/s.14A</b>			
			<b>19,48,301</b>
<b>Total Amount Inadmissible u/s.14A (Rounded off)</b>			
			<b>19,49,000</b>

7. A perusal of the assessment order shows that nowhere the AO has discussed any dissatisfaction insofar as the aforementioned computation of *suo moto* disallowance made by the assessee is concerned. The Hon'ble Jurisdictional High Court of Bombay in the case of *PCIT vs. M/s. Bombay Stock Exchange Ltd. in Income Tax Appeal No. 1017 of 2017, order dated 15/10/2019*, was seized with the following question of law:-

"2. The Revenue has urged the following question of law for our consideration:

"Whether on the facts and circumstances of the case and in law, the Tribunal has erred in holding that AO has not recorded satisfaction u/s 14A(2) despite the AO discussing the assessee's method in para 5.3 before not accepting the same?"

7.1. And *interalia* answered as under:-

“11. Non-satisfaction with the disallowance offered by the assessee has to be arrived at on the basis of the accounts submitted by the assessee. In this case, the Assessing Officer had not carried out the aforesaid exercise but rejected the disallowance claimed by the assessee only on the ground that it was not in accordance with Rule 8D of the Rules. The application of Rule 8D of the Rules would only arise once the Assessing Officer is not satisfied on an objective criteria in the context of its accounts, that suo motu disallowance claimed by the assessee is not proper.

12. In fact, the Supreme Court in the case of Maxopp Investment Ltd. v. Commissioner of Income Tax' while upholding the view of the Delhi High Court has held that the Assessing Officer needs to record his non-satisfaction having regard to the suo motu disallowances claimed by the assessee in the context of its accounts. It is only thereafter, the occasion to apply rule 8D of the Rules for apportionment of expenses can arise.

13. In the present facts, the Tribunal has correctly come to the conclusion that non-satisfaction as recorded by the Assessing Officer for rejecting the suo moto disallowances claimed by the assessee is not done as required under sections 14A(2) of the Act. On facts, the view taken by the Tribunal is a possible view and calls for no interference.”

8. Respectfully following the binding decisions of the Hon'ble Jurisdictional High Court (*supra*), we decline to interfere with the findings of the Id. CIT(A). The effective ground/s raised by the revenue are dismissed.

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

Order pronounced in the Court on August, 2025 at Mumbai.

*Sd/-*

(SANDEEP SINGH KARHAIL)  
JUDICIAL MEMBER

*Sd/-*

(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, Dated 25/08/2025

*Sd/-*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai