

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 27/M/2025
Assessment Year: 2018-19**

M/s. Enam Holding Private Limited, 11 th Floor, Express Towers, Nariman Point, Mumbai-400021. PAN: AABCE7938H	Vs.	Deputy Commissioner of Income-Tax, NeAC ACIT 4(1)(1), Aayakar Bhavan, National e-Assessment Centre, Delhi.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Dharan Gandhi, Ld. A.R.
Revenue by : Shri Hemanshu Joshi, Ld. D.R.

Date of Hearing : 29.07.2025
Date of Pronouncement : 29.08.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 18.11.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2018-19.

2. In the instant case, the Assessing Officer (AO) vide assessment order dated 27.02.2021 determined the disallowance as per section 14A of the Act r.w.r 8D of the Income Tax Rules, 1962 (in short "the Rules") to the tune of Rs.1,56,17,271/- as against the disallowance of Rs.62,62,523/- as voluntarily offered by the Assessee and consequently added the amount of Rs.93,54,748/-

(1,56,17,271/- - Rs.62,62,523/-) in the income of the Assessee being disallowance u/s 14A r.w.r. 8D of the Rules.

3. The Assessee, being aggrieved, challenged the said disallowance by filing first appeal before the Ld. Commissioner and mainly claimed that the Assessing Officer (AO) has considered all the investments made by the Assessee, whereas it is a fact that all investments have not yielded exempt income during the year under consideration. Therefore, if any disallowance is to be made, then the same be restricted in respect of those investments, which have yielded the exempt income during the AY under consideration but not the total investments, as held by the Hon'ble Delhi High Court in the case of ACB India Ltd. vs. CIT (2015) 374 ITR 108 (Del.) and Special Bench of the Tribunal in the case of ACIT vs. Vireet Investments (P) Ltd. (2017) 165 ITD 27 (Delhi) (SB).

4. The Ld. D.R. though refuted the claim of the Assessee but not the judgments referred to above.

5. Heard the parties and perused the material available on record. Admittedly, the Hon'ble Delhi High Court in the case of ACB India Ltd. (supra) has held clearly that average value of investments for the purposes of rule 8D should be confined to those securities in respect of which exempt income is earned and not the total investments. Further, the Special Bench of the Tribunal in the case of Vireet Investments (P) Ltd. (supra) has also taken a view that only such investments in calculating the average value of investments, which have yielded exempt income during the year, should be taken into consideration for making the disallowance u/r 8D of the Rules but not those investments, which have not earned any exempt income.

6. Thus considering the peculiar facts and circumstances, we direct the **JAO** to consider the investments, which have actually yielded exempt income, for making the disallowance u/s 14A of the Act r.w.r 8D of the Rules only and recompute the disallowance accordingly.

7. In the result, the Assessee's appeal is allowed.

Order pronounced in the open court on 29.08.2025.

Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.