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

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No. 3252/MUM/2025
(A.Y. 2021-22)

HDFC Asset Management Company Limited, 2nd Floor, HDFC House, 165 & 166, H.T. Parekh Marg, Backbay Reclamation, Churchgate, Mumbai–400020, Maharashtra	v/s. बनाम	Deputy Commissioner of Income Tax, Circle – 1(1)(1), 5th Floor, Aayakar Bhavan, Maharishi Karve Marg, Marine Lines, Mumbai – 400020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACH7614L		
Appellant/अपीलार्थी	..	**Respondent**/प्रतिवादी

Appellant by :	Shri Niraj Sheth,AR
Respondent by :	Shri Ritesh Misra (CIT DR)

Date of Hearing	14.07.2025
Date of Pronouncement	12.08.2025

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The present appeal is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to assessment order passed u/s. 143(3) r.w.s. 144B of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 29.12.2022 for the Assessment Year [A.Y.] 2021-22.

2. The grounds of appeal are as under:

1. Re.: Disallowance under section 14A of the Income-tax Act, 1961 ("the Act");

1.1. On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the additional disallowance of Rs. 4,52,04,000 made by the AO under section 14A of the Act r.w.r. 8D of the Income-tax Rules, 1962.

1.2. On the facts and in circumstances of the case and in law, the CIT (A) has erred in not accepting the suo-moto disallowance made by the Appellant in its return of income of Rs. 5,50,000 thereby not accepting the method employed by the Appellant for the purpose of computing disallowance under Section 14A of the Act.

2. Re.: Erroneous ad-hoc addition in the computation sheet of Rs. 212,53,21,151:

2.1. On the facts and in circumstances of the case and in law, the CIT (A) has erred in not adjudicating the ground of erroneous ad-hoc addition made in the computation sheet of Rs. 212,53,21,151.

2.2. On the facts and in circumstances of the case and in law, the CIT (A) has erred in not considering. that in the computation sheet annexed to the assessment order, the AO has erred in considering business income at Rs. 1642,90,93,900 instead of Rs. 1430,37,72,749 resulting in an unwarranted addition of Rs. 212,53,21,151 to the total income without providing any reasons thereof.

3. Re.: Erroneous interest levied under section 234A of the Act of Rs. 2,05,21,024.

3.1. On the facts and in circumstances of the case and in law, the CIT (A) has erred in not adjudicating the ground of erroneous interest levied under section 234A of the Act of Rs. 2,05,21,024.

3.2. On the facts and in circumstances of the case and in law, the CIT (A) has erred in not considering that interest under section 234A of the Act has been erroneously levied given that there was r delay in filing the return of income.

4. Re.: Erroneous consequential interest levied under section 234B of the Act of Rs. 10,77,35,376

4.1. On the facts and in circumstances of the case and in law, the CIT (A) has erred in not adjudicating the ground of erroneous consequential interest levied under section 234B of the Act of Rs. 10,77,35,376,

4.2. On the facts and in circumstances of the case and in law, the CIT (A) has erred in not considering that consequential interest under section 2348 of the Act has been erroneously levied on account of erroneous ad-hoc addition in the computation sheet as per ground 2 above. ***(NOT PRESSED)***

3. It may be stated here at the outset that during hearing before us, the ld.AR submitted that the assessee did not want to press **ground nos. 2, 3 and 4** above. Request of the assessee is considered. Accordingly, all these ground are **dismissed.**

4. The only remaining **ground no.1**of appeal pertains to the addition made by the AO on account of disallowance u/s 14A of the Act. The assessee has assailed the addition on the ground that the disallowance was made at Rs. 45,204,000/- under section 14A of the Act, by applying Rule 8D of the Income-tax Rules without appreciating the detailed justification provided during assessment with regard to the disallowance under section 14A of Rs. 550,000/- already made by the Company in its return of income.

5. The AO noted that the assessee earned exempt income of Rs 31.42 cr. against which it *suo motu* disallowed Rs. 5,50,000/-u/s 154A of the Act. It was stated before him that the company did not incur any expenditure for earning this income which related to tax free bonds worth Rs 459 cr. No new tax free investment was made during the year by it. It was also stated that only three employees looked after the

management of tax free bonds and they would require negligible working hours. The AO however, rejected the claim by stating that such huge investment would require proper monitoring and expenditure. Accordingly, he invoked the provisions of Rule 8D r.w. section 14A and made disallowance of Rs 4.57 cr.

6. During the appellate proceedings before the ld.CIT(A), the assessee submitted that the appellant has got relief from Hon'ble ITAT in its own cases pertaining to previous years on the same matter. However, the appellate authority observed that from the perusal of the orders of the Hon'ble ITAT, it has been gathered that the contention of the assessee was factually incorrect. Appeals of the appellant in previous years was not allowed but only set aside. Further, the contention of the appellant that the AO passed Order Giving effect to the Order of Hon'ble ITAT was not applicable as well since the AO in the instant case had rightly put on record that the assessee had invested in 13 different schemes which are no way related to it. Assessee had also placed reliance on Reliance Capital AMC vs PCIT ([2017] 86 taxmann.com 200 (Bombay))-which was stated to be not applicable here as investing in group companies is a managerial decision and did not require analyzing the company financials or doing a market research or getting an expert opinion whereas in assessee's case all the 13 schemes being nowhere

related to assessee company, assessee would have required the deployment of substantial intellectual, physical and financial resources. Moreover, AO's satisfaction is duly recorded in assessee case. Consequently, he upheld the disallowance holding that he did not find any infirmity with the order of the AO by making the additional disallowance of Rs.45,204,000/-.

7. In the course of hearing before us while the ld.DR relied on the orders of lower authorities, while the ld.AR inter alia contented that the AO made the disallowance without appreciating the facts of the case and also in the light of the facts that the predecessor and the successor AOs in the assessment orders in AYs 2020-21 and 2023-24 did not make any disallowance on the same set of facts after duly considering the facts of the case which was identical to the year under consideration. Therefore, there was no reason for deviation and taking a contrary view of the matter. Copy of the assessments orders have been filed alongwith paper book. It is noticed from the assessment order dated 20.3.2025 for AY 2023-24 that the AO has made a detailed discussion on the issue of 14A disallowance. Submissions made by the assessee have been reproduced on pages 4 to 8 of the said order and the AO in categorical statement has stated that no adverse inference is drawn. Similarly ,in the assessment order dated 22.09.2022 made u/s 143(3) of the Act for

AY2020-21,the AO as per para 3.4.4. page 7 of the order has taken into consideration the contention of the assessee having incurred no expenditure to earn exempted income has accepted the working of the assessee of *suo motu* disallowance of Rs 5,61,605/- and the said submission has been duly accepted.

7.1 We find that no disallowance was made by the ld. AO in any of the above mentioned assessment orders in respect of the subject mentioned u/s 14A of the Act. Both the parties agreed that there is no change in the facts and circumstances of the case with regard to the subject mentioned issue during the year under consideration. Hence, there is no need for the revenue to take a divergent stand during this year alone. Although *res judicata* was not applicable to income tax proceedings, the principle of consistency requires that unless facts or law have/has undergone a change, the view taken earlier under similar circumstances needs must be followed. The Hon'ble Supreme Court in the case of **Radhasaomi Satsang vs. CIT, reported in 193 ITR 321** held that strictly speaking res judicata does not apply to income-tax proceedings. Though each assessment year being a unit, what was decided in one year might not apply in the following year. Where a fundamental aspect permeating through different assessment years has been found as a fact one or the other and parties have allowed that

position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year. Respectfully following the above ratio, we set aside the appellate order and direct the AO to delete the disallowance.

8. In the result, the appeal of the assessee is **partly allowed.**

Order pronounced in the open court on **12.08.2025**.

Sd/-	**Sd/-**
SAKTIJIT DEY	**PRABHASH SHANKAR**
(उपाध्यक्ष/ VICE PRESIDENT)	**(लेखाकार सदस्य/ACCOUNTANT MEMBER)**

Place: मुंबई/Mumbai
दिनांक /Date 12.08.2025
Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.