

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.1251/PUN/2025
Assessment year : 2020-21**

Nitin Dwarkadas Nyati Sr. No.103/129, Nyati Unitree, Yerwada, Nagar Road, Pune – 411006	Vs.	ACIT, Central Circle 2(3), Pune
PAN: AABPN2601F		
(Appellant)		(Respondent)

Assessee by : Shri Krishn V Gujarathi
Department by : Shri Ratnakar Bhimrao Shelake
Date of hearing : 10-09-2025
Date of pronouncement : 04-11-2025

ORDER

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 25.03.2025 of the Ld. CIT(A), Pune - 12 relating to assessment year 2020-21.

2. Facts of the case, in brief, are that the assessee is an individual engaged in the business of civil contractors and builders. He filed his return of income on 31.01.2021 declaring total income of Rs.36,73,55,850/-. The return was processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') at total income of Rs.36,85,60,000/-. Subsequently the return was selected for complete scrutiny assessment under CASS. Accordingly statutory notices u/s 143(2) and 142(1) of the Act were issued and served on the assessee in response to which the assessee filed the requisite details. The Assessing Officer completed the

assessment u/s 143(3) r.w.s. 144B of the Act on 20.09.2022 assessing the total income at Rs.40,41,76,243/- after making addition of Rs.3,05,36,389/- on account of disallowance u/s 14A of the Act and Rs.50,79,854/- on account of education cess.

3. So far as the disallowance of Rs.3,05,36,389/- u/s 14A read with Rule 8D of the Income Tax Rules, 1962 is concerned, the Assessing Officer noted that the assessee has earned exempt income of Rs.4,24,28,153/- which is the share of profit in firm, dividend and interest on PPF. However, the assessee has not disallowed any amount towards expenditure in relation to income which does not form part of total income. According to the Assessing Officer as per provisions of section 14A of the Act, the expenditure in relation to income, which does not form part of total income, cannot be allowed as deduction. He, therefore, confronted the same to the assessee. The assessee submitted that it has declared interest of Rs.24,37,39,440/- which is much higher than the interest paid for general purpose i.e. Rs.1,02,24,000/-. Therefore, income from interest is higher by Rs.23,35,15,440/- and therefore, there is no question of disallowance of any interest. It was submitted that in order to attract the provisions of section 14A, the assessee must incur the expenditure in relation to the income not forming part of the total income. Relying on various decisions it was submitted that no disallowance is called for.

4. However, the Assessing Officer was not satisfied with the arguments advanced by the assessee and made disallowance of an amount of Rs.3,05,36,389/-

by invoking provisions of section 14A read with Rule 8D. Similarly, the Assessing Officer disallowed education cess of Rs.50,79,854/- on the basis of the amendment by the Finance Act, 2022, according to which the amendment is retrospective in nature i.e. w.e.f. assessment year 2005-06 onwards and therefore, this amendment is applicable for the year under consideration.

5. In appeal, the Ld. CIT(A) partly allowed the disallowance u/s 14A read with Rule 8D and confirmed the disallowance of education cess.

6. Aggrieved with such order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:

1. *On the facts and in the circumstances of the case in law, the Honourable CIT(A) erred in partially confirming the disallowance u/s 14A r.w.r. 8D without appreciating the facts of the case and the contentions of the appellant in proper perspective. The appellant hereby prays that the disallowance made under section 14A of the Income Tax Act 1961 read with Rule 8D of the Income Tax Rules, 1962 may please be deleted.*
2. *Without prejudice to ground of appeal no.1, on the facts and in the circumstances of the case and in law, the Honourable CIT(A) erred in partially confirming the disallowance u/s 14A r.w.r. 8D without appreciating the fact that the learned AO had not recorded any satisfaction as to incorrectness of the claim of the appellant. The appellant hereby prays that the disallowance made under section 14A of the Income Tax Act, 1961 read with rule 8D of the Income Tax Rules, 1962 may please be deleted.*
3. *On the facts and in the circumstances of the case and in law, the Honourable CIT(A) erred in partially confirming the disallowance u/s 14A r.w.r. 8D without appreciating the fact that no expenditure was incurred during the year under consideration for earning income which does not form part of total income and hence no disallowance is warranted under the provisions of Section 14A of the Income Tax Act, 1961. Without prejudice to ground of appeal no 1 and 2, the appellant hereby prays that the disallowance made under section 14A of the Income Tax Act, 1961 read with rule 8D of the Income Tax Rules, 1962 may please be deleted.*

4. *On the facts and in the circumstances of the case and in law, the Honourable CIT(A) erred in not restricting the disallowance under section 14A of the Income Tax Act 1961 read with rule 8D of the Income Tax Rules, 1962 to only such expenditure which may have any nexus with earning of exempt income and not extend the disallowance to expenses having direct relation to earning taxable income. Hence, without prejudice to Ground No 1 to 3 of Appeal, appellant requests that the disallowance under section 14A of the Income Tax Act, 1961 read with rule 8D of the income Tax Rules, 1962 may please be restricted to only such expenditure which may have any nexus with earning of exempt income and exclude expenses having direct relation to earning taxable income.*
 5. *The appellant requests that it be appreciated that the disallowance u/s 14A on certain investments far exceeds the amount of exempt income earned from the said investments. Hence, without prejudice to Ground No.1 to 4 of Appeal, appellant requests that the disallowance under section 14A of the Income Tax Act 1961 read with rule 8D of the Income Tax Rules, 1962 in respect of such investments may please be restricted to only such exempt income which has been earned from such investments.*
 6. *The appellant hereby reserves the right to raise or add any additional ground/s of appeal or delete or withdraw any ground/s of appeal.*
7. The Ld. Counsel for the assessee at the outset submitted that the assessee conducts his main business through two proprietary concerns viz. Nyati Housing and Nyati Consultants and Engineers. Separate books of account are maintained for these two businesses. Remaining activities are accounted for in the personal accounts of the assessee. He submitted that out of administrative expenses of Rs.6,32,04,662/- appearing in the consolidated Profit & Loss Account an amount of Rs.5,48,34,968/- pertains to Nyati Housing. He submitted that there are no investments in the proprietary concern of Nyati Housing, therefore, no disallowance out of administrative expenses of Rs.5,48,34,968/- can be made. So far as the various expenses debited in the Profit & Loss Account in the books of Nitin Nyati is concerned, he submitted that the assessee has given complete bifurcation of the total amount of Rs.1,06,94,843/-. He submitted that out of the

same, an amount of Rs.50,79,854/- relates to education cess which has been disallowed by the Assessing Officer and confirmed by the Ld. CIT(A) and the assessee is not in appeal before the Tribunal. Further an amount of Rs.2,58,748/- relates to insurance and Rs.12,78,739/- towards PMC property tax. He submitted that the amount of Rs.106,94,843/- also includes depreciation of Rs.23,25,150/-, GST on professional services availed of Rs.4,08,175/- and profession tax of Rs.2,500/-. Further, the exempt income which has been earned is on account of investment in the partnership firms / LLPs / AOPs and the investment in shares with Indian companies. The assessee has received an amount of Rs.4,10,38,910/- being profit from the firms and AOPs whereas it has received dividend of only Rs.78,350/- on account of shares held with the Indian companies and Rs.1,06,745/- as interest on PPF. He accordingly submitted that no disallowance should be made on account of section 14A read with Rule 8D. Further the Assessing Officer has not recorded any satisfaction. He submitted that since no expenditure was incurred during the year under consideration for earning income which does not form part of the total income, therefore, no disallowance should be made. Relying on various decisions, he submitted that the order of the Ld. CIT(A) should be set aside and the grounds raised by the assessee be allowed.

8. The Ld. DR on the other hand heavily relied on the orders of the Assessing Officer and Ld. CIT(A).

9. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. CIT(A) and the paper book filed on

behalf of the assessee. We have also considered the various decisions cited before us. We find the assessee in the instant case has earned the following exempt income:

- i. Profit from Firms and AOP of Rs.4,10,38,910/-*
- ii. Dividend from shares held with Indian Companies of Rs.78,350/-*
- iii. Interest on PPF Rs.1,06,745/-*

10. We find the Assessing Officer, invoking the provisions of section 14A read with Rule 8D, made disallowance of Rs.3,05,36,389/-. We find the Ld. CIT(A) directed the Assessing Officer to re-compute the disallowance u/s 14A read with Rule 8D at 1% by taking only those investments from which income not forming part of the total income has been earned by the assessee during the year under consideration. It is the submission of the Ld. Counsel for the assessee that the Assessing Officer has not recorded any satisfaction as to the correctness of the claim of the assessee. It is also his submission that no expenditure was incurred during the year under consideration for earning income which does not form part of the total income and therefore, no disallowance is warranted under the provisions of section 14A of the Act. It is also his submission that the disallowance, if any, u/s 14A read with Rule 8D should be applicable only to such expenditure which may have any nexus with earning exempt income and not extend the disallowance to expenses having direct relation to earning taxable income.

11. We find some force in the above arguments of the Ld. Counsel for the assessee. A perusal of the order of the Ld. CIT(A) shows that he has given a

finding at paras 4 and 5 that the assessee conducts his main business through two proprietary concerns viz. Nyati Housing and Nyati Consultants and Engineers. Separate books of account are maintained for these two businesses. Remaining activities are accounted for in the personal accounts of the assessee. A perusal of the submission made before the Ld. CIT(A) shows that the assessee during the appeal proceedings has given the details of administrative expenses of Rs.6,32,04,662/- appearing in the consolidated Profit & Loss Account out of which an amount of Rs.5,48,34,968/- pertains to Nyati Housing where there are no investments. Therefore, we find some force in the arguments of the Ld. Counsel for the assessee that an amount of Rs.5,48,34,968/- should be excluded for the purpose of disallowance u/s 14A of the Act. Further, a perusal of the total administrative expenses of Rs.1,06,94,843/- bifurcation of which is given at pages 15 and 16 of the order of the Ld. CIT(A) shows that the assessee has incurred various expenses as under:

SR.NO.	PARTICULARS	AMOUNT (RS.)	REASON
1	Interest On TDS	15,300	Disallowed in computation of income. Refer schedule 24 of computation of income attached herewith (Refer annexure "G")
2	Stamp Paper & Notary Expenses	2,990	Expenditure incurred to earn taxable income.
3	Security Expense	29,500	Expenditure incurred to earn income from business
4	GST Expense	4,08,175	GST on professional services availed
5	Donation	2,500	Not claimed as an expense in the computation of total income. Refer schedule 24 of computation of income attached herewith in annexure "G".

6	Depreciation	23,25,150	It is an allowance and not expenditure. Not subject to disallowance u/s 14a. (HoshangNanevali vs. ACIT ITA No. 3557/MUM/07) (refer annexure "H")
7	Education Cess	50,79,854	The same has been separately added to the total income during the course of assessment proceedings and the appellant is filing the Form 69 with respect to the same. Hence, it is not to be considered for the purpose of disallowance u/s 14A as it will amount to double disallowance.
8	E - TDS Filing Charges	770	Payment made to TIN facilitation centre for e-TDS returns filing.
9	Legal Expenses	1,04,500	Fees pertain to real estate business of the appellant.
10	Legal Fees	9,19,500	Fees pertain to real estate business of the appellant.
11	Liaison Expense	58,275	Fees pertain to real estate business of the appellant.
12	Professional Fees	1,48,000	Fees pertains to tax consultancy fees and other fees related to real estate business of the appellant. Also, refer ITO vs. Pioneer Radio Training Services Pvt. Ltd. (ITA No. 4448/DEL/2013)) (Refer annexure "I")
13	Profession Tax	2,500	The expenditure incurred is not related to exempt income earned.
14	Property Insurance	2,58,748	The expenditure incurred is treated separately and included in standard deduction @ 30% under income from House Property and hence disallowed in

			computation of income. Refer schedule 23 of computation of income.
15	Property Tax	12,78,739	Property tax of Rs. 11,41,795/- and Rs. 59,380/- totaling to 12,01,175/- is treated separately and claimed under house property. Balance of rs. 77,564 is property tax pertaining to real estate business of the appellant
	Total	1,06,34,501	

12. Thus, we find that out of total amount of Rs.1,06,34,501/- an amount of Rs.50,79,854/- relates to education cess which has already been disallowed, Rs.23,25,150/- relates to depreciation, Rs.2,58,748/- relates to property insurance and Rs.12,78,739/- relates to the property tax which have no relevance to the earning of exempt income. However, for the remaining expenses, we are of the considered opinion that there is some nexus with earning of exempt income. Therefore, a balance approach has to be taken in the instant case. When it was pointed out to both sides, they agreed that a reasonable amount may be disallowed u/s 14A read with Rule 8D. Considering the peculiar facts and circumstances of the case, we are of the considered opinion that a reasonable disallowance of Rs.10 lakhs u/s 14A read with Rule 8D will meet the ends of justice. We hold and direct accordingly. The Assessing Officer is directed to restrict the disallowance u/s 14A read with Rule 8D to Rs.10,00,000/-. The grounds raised by the assessee are accordingly partly allowed.

13. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 4th November, 2025.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 4th November, 2025

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	06.10.2025 & 03.11.2025		Sr. PS/PS
2	Draft placed before author	09.10.2025 & 03.11.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			