

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

I.T.A No.6121/Mum/2025  
(Assessment Year: 2012-13)

<b>Apcotex Industries Limited</b> MIDC Taloja, Taloja, Raigad <b>PAN: AAACA3427G</b>	<b>vs</b>	<b>Asst Commissioner of Income Tax-15(1)(1),</b> Aayakar Bhavan, M.K. Road, Mumbai
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Piyush Chhajed (Virtually appear)

Respondent by : Shri Surendra Mohan (SR DR)

Date of hearing : 25/11/2025

Date of pronouncement : 27/11/2025

**ORDER**

**Per: Anikesh Banerjee (JM):**

The instant appeal of the assessee was filed against the order of the National Faceless Appeal Centre(NFAC), Delhi [hereinafter, 'Ld.CIT(A)] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for the Assessment Year 2012-13, date of order 24/07/2025. The impugned order was emanated from the order of the Learned Assistant Commissioner of Income-tax-15(1)(1), Mumbai (in short, 'Ld.AO'), order passed under section 143(3) of the Act and the date of order 28/03/2015.

2. The Ld.AR argued and filed a paper book containing **pages 1 to 48**, which is kept on record. The only point agitated by the Ld.AR before the Bench relates to disallowing u/s 14A of the Act amount to Rs.40,20,144/-. The assessee challenged the issue along with all other issues before the Ld.CIT(A). But the only issue relates for adjudication before the Bench is disallowance u/s 14A of the Act amount to Rs.40,20,144/-. The assessee, in the return of income, suo motu made disallowance u/s 14A read with rule 8D of the Income tax Rule, 1962 (in short, 'Rule') amount to Rs.10,21,200/- i.e. 0.5% of the average value of the investments amount to Rs.20,42,40,000/- and the disallowance was also added to the book profit computed u/s 115JB of the Act. The Ld.AR argued that the assessee-company during the impugned assessment year has earned dividend income of Rs.56,31,238/-. While filing the return of Income, the assessee-company suomoto disallowed U/s.14A read with Rule 8D of the Rule and disallowed Rs.50,50,343/- as being expenditure not directly attributable for earning the tax from dividend income. The Ld. AO in assessment proceeding came to a conclusion that interest paid by assessee amounting to Rs.3,98,08,000/-also includes interest on account of investment made by the assessee.

It is also noted that the Opening Investment as on 1.4.2011 was to the extent of Rs.19,44,28,000/- and Closing Investment as on 31.3.2012 amounted to Rs.21,40,52,000/-. The Ld. AR invited our attention in Audited Balance Sheet, annexed in APB page- 1 to 2 wherein it needs to be appreciated that the assessee's Net worth as at 31.3.2012 is Rs. 69,77,67,000/- and as at 31.3.2011 the net worth was Rs.64,19,43,000/-. Hence there was sufficient in Capital and Reserves to make such Investments if any that shall derive exempt income. Thus the assessssee has not incurred any expenditure in nature of interest in relation

to exempt investment. Whereas the total investments made upto 31-03-2012 by the assessee amounted to Rs.21,40,52,000/- and whereas the Share Capital & Free Reserves as on 31-03-2012 was at Rs.19.70 crores. The Ld. AR demonstrates that the investments were made out of the reserves of the company and hence no disallowances are warranted on account of interest u/s 14A of the Act.

3. The Ld. AR further argued that the assessee's case is fully covered by the order of Hon'ble Bombay High court in case of **CIT vs. HDFC Bank Ltd. 366 ITR 505**, held that If the assessee possesses interest-free own funds (share capital, reserves and surplus) which are more than the value of the investments, then a presumption arises that such investments are made out of own funds. Same view was taken by the Hon'ble Bombay High Court in **CIT vs. Reliance Utilities & Power Ltd, 213 ITR 340 (Bom)**. Respectfully considering the above Judgments of Hon'ble Bombay High Court the amount of disallowance done by the assessee the expenses u/s 14A is acceptable.

4. The Ld. AR further argued that the Ld. AO erred in disallowing amount to Rs.15,40,828/- U/s 14A with appreciating fact that assessee has excess Capital Reserve against the investment in share. The assessee seeks to make additional claim of interest wrongly disallowed U/s 14A amount to Rs.40,29,144/- and thus seeks to limit the disallowance U/s 14A to Rs.10,21,000/- instead of Rs.50,50,334/- suo-moto disallowed by the assessee in ROI.

5. The Ld. DR supported the orders of the revenue authorities; however, he was unable to rebut the submissions of the Ld. AR by citing any contrary judicial precedent.

6. We heard the rival submissions and considered the documents available on the record. The assessee earned the dividend amount of Rs.56,38,238/- in impugned assessment year. Considering the section 14A read with rule 8D(2), the assessee disallowed 0.2% of the investment, which comes to amount of Rs.10,21,200/- and offered for tax in the return of income. On perusal of the balance-sheet, annexed in **APB pages 1 to 6**, we find that the assessee company's net worth as at 31/03/2012 is Rs.69,77,67,000/- and as at 31/03/2011, the net worth was Rs.64,19,43,000/-. On the other hand, Opening investment as on 31/03/2011 was amount to Rs. 19,44,28,000/- and Closing investment as on 31/03/2012 amount to Rs.21,40,52,000/-. So the share capital and free reserves are much more than the assessee's investment. We respectfully relied on the order of the Hon'ble Bombay High Court in **HDFC Bank Ltd** (supra) & **Reliance Utilities & Power Ltd** (supra) where the assessee has interest-free own funds such as share capital and reserves and surplus which is exceeding the amount of the investments or advances, a presumption arises that such investments or advances have been made out of these own funds. So, the disallowance made by the Ld. AO U/s 14A of the Act is deleted. The appeal of the assessee stands allowed.

7. In the result, the appeal of the assessee bearing **ITA No. 6121/Mum/2025** is allowed.

Order pronounced in the open court on 27<sup>th</sup> November 2025

Sd/-

(SMT. RENU JAUHRI)  
ACCOUNTANT MEMBER  
Mumbai, दिनांक/Dated: 27/11/2025  
Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, MUMBAI
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI