

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**ITA No.1674/Mum/2025
(Assessment Year :2017-18)**

JCIT (OSD), Circle 2.3.1 Mumbai	Vs.	Rajesh Estates and Nirman Pvt. Ltd., 139, 2 nd Floor, Seksaria Chambers Nagindas Master Road, Fort, Maharashtra- 400 023
PAN/GIR No.AAACR7599A		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri Annavarani Kosuri, Sr. AR
Date of Hearing	27/11/2025
Date of Pronouncement	16/12/2025

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The present appeal has been preferred by the Revenue against the order dated 18 December 2024 passed by the learned Commissioner of Income Tax (Appeals)-54, Mumbai, arising out of the assessment framed under section 143(3) of the Income Tax Act, 1961 for the Assessment Year 2017-18.

2. The grievance raised by the Revenue in the grounds of appeal is confined to the action of the learned Commissioner

(Appeals) in restricting the disallowance made under section 14A of the Act read with Rule 8D of the Income Tax Rules, 1962, and in deleting the consequential adjustment made by the Assessing Officer while computing the book profit under section 115JB of the Act.

3. The material facts, briefly stated, are that the assessee company is engaged in the business of real estate development. During the course of assessment proceedings, the Assessing Officer noticed that the assessee had made investments in a partnership firm, namely M/s Rajesh Investment, and also in Rare Township Pvt. Ltd. The Assessing Officer issued a show cause notice calling upon the assessee to explain as to why disallowance under section 14A should not be made. In response, the assessee submitted that it had not earned any exempt income during the relevant previous year and, therefore, the provisions of section 14A were not attracted. It was further submitted that no expenditure could be said to have been incurred in relation to income not forming part of total income.

4. The Assessing Officer, however, was not convinced with the explanation furnished by the assessee and proceeded to apply the provisions of section 14A read with Rule 8D. By applying Rule 8D, he computed the disallowance at one percent of the annual average of the opening and closing balances of investments and worked out a disallowance of ₹2,97,08,765 under section 14A of the Act. A similar amount was also

added back while computing the book profit under section 115JB of the Act.

5. In appeal, the learned Commissioner (Appeals) examined the issue in detail. It was noticed that during the year the assessee had incurred a loss of ₹71,04,282 from the partnership firm M/s Rajesh Investment and that the share of profit or loss from a partnership firm does not enter the computation of total income by virtue of section 10(2A) of the Act. The assessee contended that a loss from a partnership firm could not be equated with exempt income and that in the absence of any positive exempt income, no disallowance under section 14A was permissible. Reliance was placed on several judicial precedents in support of this proposition.

6. The learned Commissioner (Appeals), after considering the submissions and the judicial precedents, held that the provisions of section 14A were applicable since the share of profit or loss from a partnership firm does not form part of the total income under section 10(2A). However, he also held that the disallowance under section 14A cannot exceed the amount of income which does not form part of total income. Accordingly, he restricted the disallowance to ₹71,04,282, being the amount relatable to the partnership firm, and deleted the balance. In so far as the adjustment made under section 115JB was concerned, the learned Commissioner (Appeals) deleted the same by following the decision of the Special Bench of the Tribunal in PCIT v. Vireet Investment Pvt. Ltd.

7. We have heard the learned Departmental Representative and have carefully perused the material placed on record, including the assessment order, the impugned appellate order and the judicial precedents relied upon. At the outset, it is an admitted and undisputed position that during the relevant previous year the assessee did not earn any positive exempt income in the conventional sense. It is equally undisputed that the assessee had a share of loss amounting to ₹71,04,282 from the partnership firm M/s Rajesh Investment and that such share of profit or loss from a partnership firm does not enter the computation of total income by virtue of section 10(2A) of the Act.

8. The core issue which therefore arises for consideration is whether such loss from a partnership firm, which is excluded from the computation of total income, can be regarded as income not forming part of total income so as to attract the provisions of section 14A of the Act, and if so, whether the quantum of disallowance computed by the Assessing Officer under Rule 8D can be sustained. The learned Commissioner (Appeals) has addressed this issue by drawing a distinction between the applicability of section 14A per se and the extent to which the disallowance can be sustained, and in our considered view, such an approach is legally sound and well reasoned.

9. The Hon'ble Supreme Court in *Maxopp Investment Ltd. v. CIT* has authoritatively laid down that section 14A is founded

on the principle of proximate cause and that what is required to be disallowed is only that expenditure which has a live and direct nexus with income which does not form part of the total income. The expression "in relation to" occurring in section 14A has been interpreted to be of wide amplitude, though not without limits, and it is only such expenditure which bears a causal connection with exempt income that falls within the mischief of the provision.

10. In so far as investments in partnership firms are concerned, the Hon'ble jurisdictional High Court in Pr. CIT v. D.B. Realty (P.) Ltd. has categorically held that section 14A applies even in cases where investments are in the nature of strategic investments or interests in partnership firms, since the share of income from such firms is exempt under section 10(2A) of the Act. The ratio of the said judgment makes it clear that the nature or purpose of the investment is not determinative; what is relevant is whether expenditure has been incurred in relation to income which does not form part of total income.

11. Applying the aforesaid principles to the facts of the present case, we find that the learned Commissioner (Appeals) was justified in holding that the provisions of section 14A were attracted notwithstanding the fact that the assessee had incurred a loss from the partnership firm. Once the share of profit or loss from a partnership firm is excluded from the computation of total income under section 10(2A), it partakes the character of income not forming part of total

income, and expenditure incurred in relation thereto cannot be allowed as a deduction against taxable income.

12. At the same time, the law is equally well settled that the disallowance under section 14A cannot exceed the amount of income which does not form part of total income. This principle flows from the very scheme and object of section 14A and has been consistently affirmed by various High Courts. The learned Commissioner (Appeals) has correctly applied this principle by restricting the disallowance to ₹71,04,282, being the amount relatable to the partnership firm.

13. We also find substance in the reasoning that the disallowance computed by the Assessing Officer under Rule 8D at ₹2,97,08,765 was wholly disproportionate to the amount excluded from the computation of total income and, therefore, could not be sustained. The restriction of the disallowance to the extent of ₹71,04,282 strikes a fair balance between the statutory mandate of section 14A and the necessity to prevent arbitrary or excessive disallowances.

14. In so far as the adjustment made while computing book profit under section 115JB is concerned, the learned Commissioner (Appeals) has rightly followed the decision of the Special Bench of the Tribunal in *PCIT v. Vireet Investment Pvt. Ltd.*, wherein it has been held that the disallowance computed under section 14A read with Rule 8D cannot be imported into clause (f) of Explanation 1 to section 115JB.

The said decision continues to hold the field and has been consistently followed by coordinate benches of the Tribunal.

15. In view of the foregoing discussion, we are of the considered opinion that the order of the learned Commissioner (Appeals) reflects a correct appreciation of facts and a proper application of the law as laid down by the Hon'ble Supreme Court and the Hon'ble jurisdictional High Court. No infirmity, factual or legal, has been pointed out before us so as to warrant any interference.

16. Accordingly, the appeal filed by the Revenue stands dismissed.

Order pronounced on 16th December, 2025.

Sd/-
(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 16/12/2025
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai