

**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.2798/PUN/2025  
Assessment year : 2017-18**

Kumar Properties and Real Estate Pvt. Ltd. 2413, 1 <sup>st</sup> Floor, Kumar Capital, East Street, Camp, Pune – 411001	<b>Vs.</b>	ACIT, Circle 14, Pune
<b>PAN: AAACK7490H</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Rajendra Agiwal  
Department by : Shri Basavaraj Hiremath, Addl.CIT  
Date of hearing : 08-01-2026  
Date of pronouncement : 09-01-2026

**ORDER**

**PER R.K. PANDA, V.P:**

This appeal filed by the assessee is directed against the order dated 23.09.2025 of the Ld. Addl. / JCIT(A)-1, Chennai relating to assessment year 2017-18.

2. Facts of the case, in brief, are that the assessee is a company engaged in the business of promoter and developer. For the year under consideration the assessee filed its return of income on 31.10.2017 declaring total income of Rs.3,46,67,130/-. The case was selected for scrutiny under CASS and a notice u/s 143(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 31.10.2017 was issued and served on the assessee. Subsequently the Assessing Officer issued

notice u/s 142(1) of the Act along with a questionnaire in response to which the assessee company furnished the details from time to time.

3. During the course of assessment proceedings the Assessing Officer, on perusal of the Balance Sheet, noted that the assessee has made investments in a partnership firm M/s. Marigold Properties, the income from which is exempt from tax in the hands of the assessee. He, therefore, asked the assessee to explain as to why the disallowance u/s 14A of the Act read with Rule 8D of the Income Tax Rules, 1962 (hereinafter referred to as 'the Rules') should not be made. Rejecting the various explanations given by the assessee and observing that the assessee has earned exempt income of Rs.88,59,809/-, the Assessing Officer, applying the provisions of section 14A of the Act read with Rule 8D of the Rules, made disallowance of Rs.34,51,842/-.

4. In appeal the Ld. Addl. / JCIT(A) upheld the action of the Assessing Officer.

5. Aggrieved with such order of the Ld. Addl. / JCIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:

*On the facts and in the circumstances of the case and in law, the learned CIT(A) has*

***General-Disallowance of Rs.34,51,842 under section 14A of the Act***

- 1. erred in upholding the action of the learned AO in disallowing expenses of Rs.34,51,842 (consisting of Rs.7,95,909 pertaining to interest expense and Rs.26,55,933 pertaining to general administrative expenses) under section 14A of the Act read with Rule 8D(2) of Rules.*

***Disallowance towards interest of Rs.7,95,909 under section 14A of the Act***

2. *erred in upholding the action of the learned AO in disallowing Rs.7,95,909 under section 14A of the Act by applying the erstwhile Rule 8D(2)(ii), without appreciating that w.e.f 02/06/2016 no interest can be disallowed as per revised Rule 8D;*
3. *erred in not appreciating the fact that the disallowance of interest under section 14A read with Rule 8D is not tenable in the present case, as the Appellant had sufficient own funds and no interest-bearing funds were utilized for making investments;*

***Disallowance towards general administrative expenses of Rs.26,55,933 under section 14A of the Act***

4. *erred in upholding the disallowance of Rs.26,55,933 under section 14A of the Act read with Rule 8D(2), without appreciating that the investments were made in a partnership firm in the capacity of a partner, and the purpose for investment was purely business in nature and not to earn exempt income.*
5. *erred in not appreciating the fact that the provisions of section 14A of the Act read with Rule 8D of the Rules are not applicable to exempt income earned in the form of share of profit from a partnership firm;*
6. *erred in not appreciating that the entire expenses incurred by the Appellant have direct correlation with the taxable business income of the Appellant and therefore no expenses can be attributable to disallowance made under section 14A of the Act;*
7. *erred in upholding the action of the learned AO's observation that investments require substantial market research, day-to-day analysis etc. without considering that the investment in question was in a partnership firm and not in shares or securities of companies.*
8. **Without prejudice to the above**, *the disallowance if any should be restricted to Rs.7,71,033, wherein disallowance is computed by allocating common admin expenses between exempt income and taxable income.*

***Initiation of penalty under section 270A of the Act***

9. *The learned AO has erred in initiating penalty proceedings on the above under section 270A of the Act.*

*The Appellant craves leave to add, alter, vary, omit, amend or delete all or any of the above grounds of appeal, on or before the date of hearing, so as to enable the Hon'ble Tribunal to decide this appeal according to law.*

6. The Ld. Counsel for the assessee at the outset referring to the submissions made before the Ld. Addl. / JCIT(A), the details of which are placed at pages 94 to 135 of the paper book, submitted that the assessee before the Ld. Addl. / JCIT(A) had submitted that the Assessing Officer has wrongly calculated the disallowance u/s 14A of the Act read with Rule 8D of the Rules and the correct disallowance comes to Rs.7,95,909/-. However, the Ld. Addl. / JCIT(A) has not considered the calculation given by the assessee and has simply sustained the addition. The Ld. Counsel for the assessee submitted that even that calculation is also wrong and the actual disallowance comes to less than Rs.2 lakhs. He further submitted that given an opportunity, the assessee is in a position to substantiate its case by filing the requisite details that such disallowance u/s 14A of the Act read with Rule 8D of the Rules under no circumstances can exceed Rs.2 lakhs.

7. The Ld. Counsel for the assessee further submitted that for assessment year 2013-14 since there was negative income / loss the Tribunal has deleted the disallowance made by the Assessing Officer and sustained by the Ld. CIT(A). So far as assessment year 2014-15 is concerned, the Tribunal has restored the issue to the file of the Ld. CIT(A) for fresh adjudication and the same is still pending. So far as assessment years 2015-16 and 2016-17 are concerned, the cases were not selected for scrutiny and therefore, no disallowance was made. He accordingly submitted that the disallowance u/s 14A of the Act read with Rule 8D of the Rules should be reduced as per the correct computation.

8. The Ld. DR on the other hand submitted that since the appeal for assessment year 2014-15 is still pending before the Ld. CIT(A), therefore, he has no objection if the matter is restored to the file of the Ld. Addl. / JCIT(A) since he has not considered the correctness of the computation by the Assessing Officer which was challenged before him by giving the details.

9. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. Addl. / JCIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case, applying the provisions of section 14A of the Act read with Rule 8D of the Rules, made disallowance of Rs.34,51,842/-. We find before the Ld. Addl. / JCIT(A) the assessee has submitted a computation according to which such disallowance comes to Rs.7,95,909/-. A perusal of the order of the Ld. Addl. / JCIT(A) shows that he has nowhere discussed the correctness of the computation filed before him and he has simply upheld the order of the Assessing Officer. It is the submission of the Ld. Counsel for the assessee that there was certain computational error in the figure of Rs.7,95,909/- and the disallowance as per section 14A of the Act read with Rules 8D of the Rules comes to less than Rs.2 lakhs. It is his submission that given an opportunity, the assessee is in a position to substantiate by filing the requisite details that such disallowance u/s 14A of the Act read with Rule 8D of the Rules under no circumstances can exceed Rs.2 lakhs. A perusal of the details furnished by the assessee in the paper book shows that the order for assessment

year 2014-15 is pending before the Ld. CIT(A) after the matter was restored to his file by the Tribunal. Under these circumstances and considering the fact that the submission made by the assessee during the course of appellate proceedings before the Ld. Addl. / JCIT(A) was not considered by him, therefore, we deem it proper to restore the issue to the file of the Ld. Addl. / JCIT(A) with a direction to adjudicate the issue afresh and in accordance with law after giving due opportunity of being heard to the assessee. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 9<sup>th</sup> January, 2026.

**Sd/-**

(ASTHA CHANDRA)  
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 9<sup>th</sup> January, 2026

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.

**Sd/-**

(R. K. PANDA)  
VICE PRESIDENT

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Assistant Registrar  
आयकर अपीलीय अधिकरण ,पुणे  
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	08.01.2026		Sr. PS/PS
2	Draft placed before author	09.01.2026		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 Office Superintendent			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			