

**IN THE INCOME TAX APPELLATE TRIBUNAL
'G' BENCH: MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

I.T.A. No. 704/Mum/2025

Assessment Year: 2014-15

&

I.T.A. No. 703/Mum/2025

Assessment Year: 2015-16

Windston Springs Private Limited

Unit No C-25, Second Floor, Shree Ram Industrial Estate, Plot No 13, G D Ambekar Marg, Wadala (W), Mumbai-400031
PAN:AAACW0542J

Dy. Commissioner Of Income Tax-8(3)(2)

Office of the Dy. Commissioner of Income Tax-8(3)(2), Room No. 615, 6th Floor, Aayakar Bhavan, M.K. Marg, Mumbai-400020

(Appellant)

(Respondent)

Appellant by	:	Shri Pramod Kumar Parida
Respondent by	:	Shri Arun Kanti Datta, CIT D.R.
Date of Hearing	:	10.12.2025
Date of Pronouncement	:	08.01.2026

ORDER

PER JAGADISH, A.M :

These appeals filed by the assessee for the assessment years 2014-15 and 2015-16 arise out of separate orders passed by the National Faceless Appeal Centre, Delhi [hereinafter referred to as "the Ld. CIT(A)"] dated 10.07.2024 and 25.10.2024 respectively. We first take up ITA No. 704/Mum/2025 relating to assessment year 2014-15.

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2. The assessee is a private limited company engaged in the business of manufacturing and sale of industrial disc springs, valve plates, etc. The assessee filed its return of income declaring total income of Rs. 2,31,63,810/-. During the year, the assessee sold a residential building forming part of the block of assets for a consideration of Rs. 49,20,000/- on 07.01.2014. The assessee also capitalised a new residential building at Bhuj before 31.03.2014 at a cost of Rs. 41,67,746/-. The assessee claimed depreciation on the residential building block contending that the block of assets had not ceased to exist. The Assessing Officer, however, held that the block of residential buildings had ceased to exist on 07.01.2014, being the date of sale of the old building, as the newly constructed building was not put to use before 31.03.2014. The Assessing Officer accordingly computed short-term capital gain under section 50 of the Income-tax Act, 1961 and made an addition of Rs. 41,05,200/-, being the difference between the sale consideration of Rs. 49,20,000/- and the opening written down value of Rs. 11,53,343/-.

3. The Assessing Officer further disallowed depreciation of Rs. 10,027/- on the ground that the new building was not put to use before the end of the year. He also disallowed interest of Rs. 3,75,097/- on

borrowed funds utilised for construction of the residential building, holding that the building was capital work-in-progress as on 31.03.2014 and that the interest was required to be capitalised.

4. On appeal, the Ld. CIT(A) confirmed the addition on account of short-term capital gain holding that the block of assets had ceased to exist as on 07.01.2014. The Ld. CIT(A) also confirmed the disallowance of interest under section 36(1)(iii) and the disallowance of depreciation by treating the building as capital work-in-progress.

5. Before us, the Ld. Authorised Representative submitted that the sale consideration received from the sale of the Surendranagar residential property was utilised for construction of the Bhuj building. It was submitted that the Bhuj building was completed before 31.03.2014 and in support thereof reliance was placed on the completion certificate issued by the Gram Panchayat, the certificate issued by a Chartered Engineer and the bills raised by contractors. It was contended that since the new building had been added to the block before the end of the previous year, the block of assets had not ceased to exist and, therefore, no short-term capital gain under section 50 was exigible.

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6. The Ld. Authorised Representative (“Ld.AR”) further submitted that no borrowed funds were utilised for construction of the Bhuj building and that the construction was financed out of the sale proceeds of the old building. It was also submitted that the building was completed and ready for use and that depreciation was allowable. Reliance was placed on the decisions in CIT v. Insilco Ltd. (320 ITR 322) and CIT v. Salora International Ltd. (308 ITR 199).

7. The Ld. Departmental Representative (“Ld.DR”) relied on the orders of the lower authorities.

8. We have considered the rival submissions and perused the material available on record. From the depreciation chart, it is evident that the assessee had residential buildings with an opening written down value of Rs. 17,38,479/- and had made additions of Rs. 41,67,746/- during the year. The ledger account of the Bhuj building shows that construction expenditure was incurred during the period from 26.08.2013 to 31.03.2014 and that the capital work-in-progress was transferred to the building account before the end of the year. The assessee has also placed on record a completion certificate issued by a Chartered Engineer certifying that the building was completed as on 31.03.2014.

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9. The Assessing Officer proceeded on the premise that the block of assets had ceased to exist on 07.01.2014, being the date of sale of the old building. However, what is relevant for the purposes of section 50 is the position of the block of assets as on the last day of the previous year. Since a new building had been added to the block before 31.03.2014, the block of assets had not ceased to exist. Consequently, the provisions of section 50 are not attracted. We therefore direct the Assessing Officer to delete the addition made on account of short-term capital gain.

10. Having held that the building was completed and ready for use, the assessee is entitled to depreciation and the Assessing Officer is directed to allow the same. As regards the disallowance of interest, the assessee has demonstrated that no borrowed funds were utilised for construction of the new building and that the construction was financed out of the sale proceeds of the old building. The borrowed funds were used for business purposes. Accordingly, the disallowance of interest is also directed to be deleted.

11. In the result, the appeal for assessment year 2014-15 is allowed.

12. We now take up ITA No. 703/Mum/2025 relating to assessment year 2015-16. During the year, the Assessing Officer made a

disallowance of Rs. 33,00,798/- under section 14A read with Rule 8D, comprising disallowance of interest under Rule 8D(2)(ii) amounting to Rs. 25,85,737/- and disallowance of administrative expenses under Rule 8D(2)(iii) amounting to Rs. 7,15,061/-. The disallowance was made on the ground that the assessee had earned exempt share of profit from the partnership firm M/s. Piano Presitel under section 10(2A).

13. The Ld. CIT(A) confirmed the disallowance by relying on CBDT Circular dated 21.11.2014 and holding that investment capable of earning exempt income was sufficient to invoke the provisions of section 14A.

14. Before us, the Ld. Authorised Representative submitted that the assessee had sufficient interest-free funds comprising share capital, reserves and accumulated profits amounting to Rs. 32.58 crore as against capital contribution to the partnership firm of only Rs. 1.11 crore. It was submitted that no borrowed funds were utilised for making the investment and that the Assessing Officer had failed to record satisfaction as required under section 14A(2). Reliance was placed on the decisions of the Hon'ble Supreme Court in *Walfort Shares & Securities Ltd. v. CIT* (326 ITR 1), the Hon'ble Punjab and Haryana

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High Court in CIT v. Hero Cycles Ltd. (323 ITR 518) and the Hon'ble Delhi High Court in Maxopp Investment Ltd. v. CIT.

15. The Ld. Departmental Representative ("Ld.DR") relied on the orders of the lower authorities.

16. We have considered the rival submissions and perused the material on record. Section 14A mandates that the Assessing Officer must record dissatisfaction with the correctness of the assessee's claim having regard to the accounts of the assessee before invoking Rule 8D. In the present case, the Assessing Officer has mechanically applied Rule 8D without recording such satisfaction.

17. The assessee had interest-free funds far in excess of the investments. The short-term borrowings amounted to Rs. 4.42 crore as against reserves of Rs. 27.45 crore. Therefore, a presumption arises that the investment was made out of interest-free funds and no disallowance of interest under Rule 8D(2)(ii) is warranted.

18. Further, earning share of profit from a partnership firm does not require any active management or decision-making by the assessee. Accordingly, disallowance under Rule 8D(2)(iii) is also not justified. We therefore reverse the order of the Ld. CIT(A) and direct the Assessing

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Officer to delete the disallowance made under section 14A. In the result, the appeal for assessment year 2015-16 is allowed.

19. In the combined result, both appeals filed by the assessee are allowed.

Sd/-

(SAKTIJIT DEY)
Vice President

Sd/-

(JAGADISH)
Accountant Member

Mumbai, Dated: *08th January, 2025.*

Disha Raut
(Stenographer)

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. The CIT
4. The CIT (Appeals)
5. The DR, I.T.A.T.

By order

(Asstt. Registrar)
ITAT, Mumbai