

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member**

**ITA No: 2523/Ahd/2025
Assessment Year: 2017-18**

Deputy Commissioner of Income Tax Circle-2(1)(1), Ahmedabad (Appellant)	Vs	Gujarat Mineral Development Corporation Limited Sixth Floor Khanij Bhavan, 132 Ft, Ring Road, B/H Gandhi Labour Institute, Ahmedabad-380052 Gujarat PAN: AAACG7987P (Respondent)
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**Revenue Represented: Shri Rajiv Garg, Sr. D.R.
Assessee Represented: Shri Bandish Soparkar, A.R.**

Date of hearing : 29-01-2026
Date of pronouncement : 05-02-2026

आदेश/ORDER

PER: T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the Revenue as against appellate order dated 09-10-2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under

section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2017-18.

2. Brief facts of the case is that the assessee is a company engaged in the business of Mining and Power Generation. For the Asst. Year 2017-18, assessee filed its Return of Income on 27-10-2017 declaring total income of Rs.208,50,39,720/- (Income declared u/s. 115JB of Rs.436,58,77,612/-). The return was taken for scrutiny assessment. The assessee earned dividend income of Rs.6,30,66,949/- and debited expenses of Rs.66,96,863/- in the Profit and Loss account for earning exempt income. The assessing officer found that this expenses is less than 0.1% of investments compared to the investments in earning exempt income, which is Rs.657,545.86 lakhs (as seen from the Annual Report). It is further seen that the value of such investments is roughly around 13% of the total assets of the company which is substantial and will require some, if not commensurate expenses, therefore, the assessing officer invoked section 14A read with Rule 8D and made disallowance of Rs.2,59,24,567/-. The A.O. also made such disallowance u/s. 115JB of the Act and demanded tax thereon.

3. Aggrieved against the assessment order, assessee filed an appeal before Ld. CIT(A) . The assessee raised additional ground before Ld. CIT(A) namely incremental expenses pertaining to Mine Closure Expenses of Rs.62,91,01,252/- be allowed u/s. 37 of the Act. The same was admitted by Ld. CIT(A). On the disallowance made u/s. 14A of the Act, the Ld. CIT(A) held that the assessee earned exempt dividend income of Rs. 6,30,66,949/- on investments totaling to Rs.

66,96,86,308/- during the financial year 2016-17. The total value of investments including those that yielded no dividend was Rs.3,27,15,473/- as on 31-03-2017. Whereas the assessee had suo moto disallowed Rs. 66,96,863/- u/s. 14A representing of the average value of investments on which dividend income was actually received at 0.5%. Since the assessee already suo moto disallowed Rs. 66,96,863/- which exceed the maximum permissible disallowance of 0.5% namely Rs. 33,48,431/-, the net addition of Rs.2,59,24,567/- made by the A.O. was directed to be deleted. In support of the same, Ld. CIT(A) relied upon Hon'ble Gujarat High Court judgment in the case of CIT vs. Corrtch Energy Pvt. Ltd. 45 taxmann.com 116 and Special Bench decision in the case of ACIT vs. Vireet Investments Pvt. Ltd. 165 ITD 27 (Del) (SB).

4. Regarding the Additional Ground of Mine Closure expenses u/s. 37(1) of the Act. The assessee sought deduction of Rs.62,91,01,252/- on account of Mine Closure Expense under Section 37(1) of the Act. This claim represents the net amount derived from the provision made during the year (Rs.65,05,59,333/) after reducing the provision from earlier years paid during the current year (Rs.2,14,58,081/-). This claim was based on the decision passed by Co-ordinate Bench of this Tribunal in the assessee's own case for prior Assessment Years 2013-14 & 2015-16 and treating the expense as an allowable deduction on an accrual basis.

4.1. Ld. CIT(A) considered the above decisions passed by Co-ordinate Bench of this Tribunal in assessee's own case in ITA No.

1880/Ahd/2019 relating to the Asst. Year 2013-14 thereby directed the A.O. to allow the deduction claimed by the assessee amounting to Rs.62,91,01,252/- while computing the total income under the normal provisions of the Act.

4.2. The assessee also claimed additional depreciation of Rs.45,21,271/- and requested to revise the Written Down Value of the block of assets pertaining to Civil work of Windmill. This revision was demanded because the depreciation claimed at 80% in previous year was restricted and only actual cost was allowed by the department.

4.3. Ld. CIT(A) considered the submission of the assessee and directed the assessing officer to recompute the WDV of the block of assets pertaining to Civil work of Windmill in accordance with the provisions of law and allowed the consequential depreciation deduction of Rs.45,21,271/- while computing the total income under the normal provisions of the Act.

5. Aggrieved against the appellate order, the Revenue is in appeal before us raising the following Grounds of Appeal:

1. *"Whether the Ld. CIT(A) has erred in law and on facts in deleting the disallowance u/s 14 A r.w.r 8D of Rs. 2,59,24,567/-, without appreciating the fact that the AO, after proper satisfaction and detailed reasoning in the assessment order, had correctly computed the disallowance as per Rule 8D(2)(ii) and (iii) at Rs. 2,59,24,567/- strict conformity with the provisions of the Act and judicial precedents applicable at the time?"*

2. *"Whether the Ld. CIT(A) has erred in law and on facts in allowing the additional depreciation on re-adjusted WDV (Civil Work of Wind Mill) of Rs. 45,21,271/- without appreciating the fact that depreciation on the Civil Work of the Windmill which was disallowed/restricted in earlier years after due*

examination, cannot be reversed artificially enhancing the W.D.V. in the current year which is Impermissible in law?"

3." Whether the Ld. CIT(A) has erred in law and on facts in allowing the deduction claimed incremental expenditure of Rs.62,91,01,252/- u/s 37(1) of the Act being Mine Closure Expenses without appreciating the fact that allowability under Section 37(1) requires that expenditure must be actually incurred or liability must have accrued. Mere accounting adjustment in the form of provision without corresponding expenditure cannot be treated as an accrued liability allowable u/s 37(1) of the Act?"

4." The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary."

5."It is, therefore, prayed that the order of Ld. CIT(A) may be set aside and that of the Assessing Officer be restored".

6. Ld. CIT-DR Shri Rajiv Garg appearing for the Revenue supported the order passed by the assessing officer and requested to uphold the same.

7. Per contra Ld. Counsel Shri Bandish Soparkar appearing for the assessee submitted that Ground No. 1 raised by the Revenue is squarely covered by Co-ordinate Bench decision in assessee's own case in ITA Nos. 2277 & 2278/Ahd/2018 dated 28-07-2019 relating to the Asst. Years 2014-15 & 2015-16, wherein Co-ordinate Bench followed the Special Bench decision in the case of ACIT vs. Vireet Investments Pvt. Ltd. and directed the A.O. to re-compute the disallowance on the average value of investments which yielded exempt income during the year.

8. We have considered the rival submissions and perused the materials available on record. The Jurisdictional High Court in the case of Corrttech Energy Pvt. Ltd. (cited supra) held that

disallowance u/s. 14A r.w.r. 8D be restricted only to the expenditure in relation to the investments that yielded exempt income. It is undisputed fact that the assessee earned dividend income on the investment of Rs.66,96,86,308/- and not earned dividend on the remaining investment of Rs.327,15,92,473/-. Further the assessee suo moto disallowed Rs. 66,96,863/- u/s. 14A of the Act which representing the average value of investments on which dividend income was actually received, which also exceeds the maximum permissible disallowance of Rs. 33,48,431/- as per Rule 8D(2)(iii) being 0.5% of average yielded investment. Thus Ld. CIT(A) deleted the net addition of Rs.2,59,24,567/- made by the A.O. which in our considered view does not require any interference. Thus the Ground No. 1 raised by the Revenue is devoid of merits and liable to be dismissed.

9. Regarding Ground No. 2 additional depreciation on readjusted WDV (Civil Work) of Windmill of Rs.45,21,271/-. It is undisputed fact that the depreciation claimed at 80% in previous Asst. Years 2012-13 & 2013-14 were restricted and was only actual depreciation allowed by the Revenue which has consequential effect on the subsequent assessment year. In this case, Ld. CIT(A) directed the assessing officer to re-compute WDV of the block of assets pertaining to Civil Work of Windmill in accordance with the provisions of Section 32 of the Act and allow consequential relief while computing the total income of the assessee. We do not find any infirmity in the order passed by the Ld. CIT(A) which is well within provisions of law. Thus the Ground No. 2 raised by the Revenue is devoid of merits and liable to be dismissed.

10. Ground No. 3 namely allowing deduction of incremental mine closure expenses of Rs.62,91,01,252/- u/s. 37(1) of the Act. Ld. Counsel for the assessee submitted that this issue is squarely covered in favour of the assessee in the order passed by Co-ordinate Bench of this Tribunal in assessee's own case in ITA No. 1880/Ahd/2019 dated 19-10-2022 relating to the Asst. Year 2013-14, Ld. CIT(A) followed the above decision therefore it does not require any interference. For ready reference the finding of the Tribunal is reproduced as follows:

"7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee company made provision in Mining Closure Fund as per the guidelines issued by the Ministry of Coal which is mandatory to each mining company. It is not disputed fact that the assessee made claim u/s 43B every year as and when the actual expenditure is made. The department in the past has accepted this position. The said provision is mandatory and the assessee has made the said provision in books of accounts following the guidelines of the Ministry of Coal. The issue of ascertaining the said provision is covered in favour of the assessee by the decision of the Hon'ble Rajasthan High Court in case of Rajasthan state Mines and Mineral Ltd. (supra) as per the contentions of the Ld. AR. But the observation of the CIT(A) that the said Mining Closure Funds is not in the nature of tax, duty, cess, fee etc. as per Section 43B, appears to be justifiable as the guideline of Ministry of Coal has given the procedure and time period for the closure expenses to be incurred by the coal mine owners who are operating coal mines without the approval of any Mine Closure Plan. Thus, Section 43B claim is not applicable in assessee's case. Thus, the CIT(A) was right in the said context. As regards the decision of the Hon'ble Rajasthan High Court the same is in the context of Section 37 claim made by the assessee therein. Thus, the said argument of the Ld. AR is rejected.

8. As regard to alternate argument that "even if the Tribunal is of the view that provision of Section 43B are not applicable to Mine Closure Expense than the amount or provision of for mine closure of Rs. 49,60,39,000/- already disallowed by the assessee company u/s 43B of the Act in its computation of income during A.Y. 2013-14, should be allowed as expenses as the same has been made on accrual basis as per the Guidelines issued by Ministry of Coal and same relates to the business of the assessee" appears to be correct. Since the assessee has to make provision for mine

closure as the requirement of the Mine owners, the same should be allowed as expenses. Thus, appeal of the assessee is partly allowed.”

10.1. Ld. Counsel also placed on record the subsequent decision passed by the Co-ordinate Bench of this Tribunal in assessee’s own case in ITA No. 938/Ahd/2024 dated 07/08/2025 relating to the Asst. Year 2015-16, wherein it followed the earlier year order of the Tribunal and held as follows:

“15. It is evident that in the impugned year also the assessee had claimed mine closure expenses deposited in escrow account as per MCP approved in its Profit and Loss account and added back the same while computing its income for the year. Nature of the same being by way of provision for final expenses to be incurred for Mine Closure and having been calculated on a scientific basis, the issue, we hold, is squarely covered by the decision of the ITAT in the case of the assessee for the preceding year.

16. No distinguishing facts having been brought to our notice, we see no reason why the assessee claim for provision created for Mine Closure expenses of Rs.80.10 Crs be not allowed and its claim of these expenses u/s 43b of the Act amounting to Rs.9.61 Crs be disallowed as held by the ITAT in the preceding year.”

11. Ld. Sr. D.R. could not place on record before us that the decisions passed by the Co-ordinate Benches of this Tribunal in ITA No. 1880/Ahd/2019 and 938/Ahd/2024 are reversed or modified by higher judicial forum. In the absence of the same, we have no hesitation in following the earlier year orders passed by this Tribunal.

12. The assessee claimed deduction Rs. 62,91,01,252/- on account of Mine Closure Expenses u/s. 37(1) of the Act. This claim represents the net amount derived from the provisions made during the year Rs.65,05,59,333/- and after reducing the provision from earlier years paid during the current year of Rs.2,14,58,081/-. Ld. CIT(A) allowed the deduction based on the decision passed by this

Tribunal in assessee's own case referred above. Therefore, we do not find any infirmity in the order passed by the Ld. CIT(A) which does not require any interference. Thus the Ground No. 3 raised by the Revenue is hereby dismissed.

13. In the result, the appeal filed by the Revenue is hereby dismissed.

Order pronounced in the open court on 05-02-2026

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER *True Copy*
Ahmedabad : Dated 05/02/2026

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद