

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.6189/M/2025
Assessment Year: 2017-18**

Macwear, Macwear House, First Floor, Sunmill Compound, Delisle Road, Mumbai - 400013. PAN - AAAPM1927E	Vs.	DCIT, Circle 22(1), Room No.322, 3 rd Floor, Piramal Chamber, Lal Baug, Parel, Mumbai - 400012
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Himanshu Gandhi, CA
Revenue by : Shri Virabhadra Mahajan, (SR. D.R.)

Date of Hearing : 21.01.2026
Date of Pronouncement : 21.01.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 05.08.2025, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

2. In the instant case, the AO vide assessment order dated 13.11.2019 under Section 143(3) of the Act, has made an addition of Rs.13,01,267/- being 1% of the average investments of Rs.13,01,26,690/-, mainly on the reason that the Assessee has failed to provide calculation/submissions and also, in the computation of total income, has not disallowed any expenditure attributable to the earning of exempt income as required under the

provision of Section 14A of the Act. The Ld. Commissioner, on the aforesaid reasons, dismissed the appeal of the Assessee, affirming the addition made by the AO. Thus, the Assessee has preferred the instant appeal.

3. The Assessee on the contrary has submitted that it has duly provided the calculation and/or submissions in respect of disallowance under Section 14A of the Act. Further the Assessee has also submitted the audited balance sheet along with annexure no.7, wherefrom it clearly appears that the Assessee has computed the disallowance u/s.14A of the Act to the tune of Rs.43,79,752/- and also depicted investments made by the Assessee, as well as, dividend (tax free) earned to the tune of Rs.20,25,585/- and administrative expense incurred however, reason best known to the authorities below, they side lined the aforesaid submissions and documents. The aforesaid facts mentioned by the Assessee are not in denial by the Ld. A.R.

4. We have heard the parties and perused the material available on record. Considering the above peculiar facts and circumstances in totality, for just and proper decision of the case and substantial justice, we deem it appropriate to remand the instant case to the file of the Jurisdictional Assessing Officer for decision afresh, by considering the calculation made qua disallowance under Section 14A of the Act, already filed, which the Assessee undertakes to file again before the jurisdictional Assessing Officer. Thus, in view of the above, the case is remanded to the file of the Ld. Jurisdictional Assessing Officer for decision afresh, suffice it to say, by considering the aforesaid documents and submissions filed by the Assessee pertaining to the disallowance/investments made and dividend, if any, earned as tax free income. Further, to restrict the disallowance under Section 14A of the Act, qua only investments, which actually

yielded the exempt income, but not otherwise, specifically in view of the decision of Hon'ble Delhi High Court in *ACB India Ltd. vs. CIT* (2015) 374 ITR 108 (Del) and Special Bench of the ITAT, in the case of *ACIT Vs. M/s. Vireet Investment (P.) Ltd.*, (2017) 82 *taxmann.com* 415 (Delhi – Trib.) (SB) wherein also it has been held that the average value of investments, for the purposes of Rule 8D(2)(iii), should be confined to those securities in respect of which exempt income is earned.

5. In the result, Assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 21.01.2026.

**Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

Tarun Kushwaha
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.