

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.7496/Mum/2025 (Assessment year: 2016-17)

SA No. 157/Mum/2025 (Assessment year: 2016-17)

The Shri Hari Trust 10 th floor, Piramal Tower, Ganpatrao Kadam Marg, Lower Parel (West), Mumbai- 400013 PAN:AABTT1794R	vs	Assistant Commissioner of Income-tax, Circle 21(3) Piramal Chamber, Lal Baug, Parel, Mumbai-400012
APPELLANT		RESPONDENT

Assessee by : Shri Ronak Doshi,
Respondent by : Shri Ritesh Misra (CIT DR)

Date of hearing : 22/01/2026
Date of pronouncement : 09/02/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the assessee filed against the order of the NFAC, Delhi [for brevity 'the Ld. CIT(A)], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for assessment year 2016-17, date of order 14.10.2025. The impugned order emanated from the order of the Ld. Assistant Commissioner of Income Tax, Circle-21(3), Mumbai (for brevity the "Ld. AO"), order passed under section 143(3) of the Act, date of order 30.12.2018.

2. The assessee has taken the following grounds.

GROUND NO. I: DISALLOWANCE UNDER SECTION 14A OF THE ACT R.W. RULE 8D OF THE INCOME TAX RULES, 1962 ("the Rules"):

"1. On the facts and circumstances of the case and in law, the CIT(A) erred in upholding the action of the AO in invoking section 14A of the Act and thereby computing the total disallowance of Rs. 43,23,20,191/- u/s 14A of the Act read with Rule 8D of the Rules including Rs. 18,28,43,063/- suo moto disallowed by the Appellant.

2. The Appellant prays that in absence of any exempt income earned during the year and even otherwise under law, no disallowance u/s 14A of the Act is warranted and accordingly the AO be directed to delete the entire disallowance u/s 14A of the Act including the suo moto disallowance made by the Appellant.

GROUND NO. II: LEVY OF INTEREST UNDER SECTION 234B OF THE ACT AMOUNTING TO RS. 2,04,46,470/-

1. On the facts and circumstances of the case and in law, the CIT(A) erred in upholding the action of AO in levying interest u/s. 234B of the Act amounting to Rs. 2,04,46,470/-.

2. The Appellant prays that the levy of interest u/s. 234B of the Act be deleted."

3. The brief facts of the case are that the assessee E-filed its return by declaring total income Rs.23,11,834/-. The case was selected for scrutiny under CASS. Accordingly, the notice was duly served to the assessee. The Ld. AO found that the assessee suo moto disallowed the expenses Rs.18,28,62,017/- directly relating to the income which is not part of the total income u/sec. 14A read with rule 8D(ii) of the Income-tax Rule, 1962 (the "Rule"). During the assessment the Ld. AO recalculated and found that amount to Rs.43,23,20,191/- is also liable to be disallowed related to interest expenditure u/sec. 8D(2)(ii) of the Act. After giving due credit of suomotu disallowance by the assessee the balance amount of

Rs.24,94,58,174/- is added back with the total income under sec 14A r.w.r. 8D of the Act. The assessee during the impugned assessment made the submission that the assessee wrongly made the suomotu disallowance Rs.18.25/-crore u/sec. 14A. Considering the fact, the assessee had not earned any exempted income during the impugned assessment year and accordingly, no addition related to section 14A in absence of exempted income is un called for. During the hearing the Ld. AR invited the assessee's submission and observations of the Ld. AO in impugned assessment year in **page no.10 and 11** is duly reproduced as below:

"4.13 The assessee's submission is considered and the assessee vide show case dated 26.12.2018 asked asto why disallowance u/s 14A should not be made asper following calculation in hiscase:

".....Computation of disallowance uls 14A:

(i) Amount of expenditure directly relating to income which does not form part of

total income = Rs.18.28.62.017/-

*(ii) $A=432320191$ $B5829499991.5$ $C10758388593.5$ $(A*B/C=234255393$*

(iii) 0.5 percent of average of the value of investment = 58294999

Therefore, total disallowance u/s 14A is Rs.475412409/-Since

you have interest expenditure of Rs.43,23,20,1911-, hence disallowance is being restricted to Rs.43,23,20,1917-

Also you have suomoto disallowed Rs.182862017/-, hence the remaining amount to be disallowed is Rs. 249458174/-

You are hereby show caused as to why Rs.249458174/- should not be disallowed u/s 144 r.w.r. 8Din your case....."

In response the assessee vide letter dated 27.12.2018 replied, which is reproduced as under:

Please refer to your captioned notice requiring us to show cause notice as to entire interest expenses of Re:43,23,20,191 be not disallowed as per section 144 r. wrBD(2)()() and

40. With regard to your proposal to disallow the entire interest expense of Rs 43.23.20 191 us 14A rwr.8D(2) (1) (1) and the assessee frust most humbly reiterates the cate submissions filed by letter dtd 24 12 2018. In view of the same, we submit that the suo moto disallowance u/s14A made in the return of income be accepted without making any further disallowance for the assessment year 2016-17 under consideration

We would also like to draw your attention to the assessment order of AY 2015-16 wherein the assessee's suo moto disallowance of Rs 20.14 crs was accepted in the scrutiny assessment order of AY 2015-16 without applying Rule 6D(2) (0) (0) and Hence, following the same, suo moto disallowance of Rs 18.28 cns for the assessment year under consideration be accepted without applying Rule 6D (2) as there is no change in facts during the year under consideration. We also submit that during the year under consideration, the assessee has not received any dividend income on its investments

Without prejudice to our above contention that Rule BD(2) should not be applied we humbly submit that if at all Rule 8D(2) is to be applied by you, then the aggregate disallowance u/s 14A r.w Rule 80(2) should be Rs 23.42.55.393/- only

4.12 Assessee's submission has been considered but not found acceptable as res judicata is not applicable in the Income tax proceedings. Assessee himself have calculated that an amount of Rs18,28,62,017/ is an interest expense that does not relate to income that form part of total income. Hence first limb of Rule 8D (2) is applicable here. Second and third limb of Rule 8D(2) is computed as per show cause notice dated 26.12.2018, reproduced in this order elsewhere. After giving credit of Rs.182862017/- as suomoto disallowance by the assessee an amount of Rs.24,94,58,174/- is hereby disallowed u/s. 14A r.w.r.8D of the Income Tax Act, 1961 and Income-tax Rules, 1962 respectively."

Aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) upheld the order by rejecting the submission of the assessee. Being aggrieved assessee filed an appeal before us.

4. The Ld. AR argued and stated that during the impugned assessment year the assessee had not earned any exempted income. But due to the wrong guidance of tax consultant the assessee suo moto disallowed the interest which is

not part of the exempted income u/sec. 14A of the Act read with rule 8D(2) and amount of Rs.18.28/-crore is declared as taxable income. The assessee during the impugned assessment and in the appellate proceeding contended that the assessee erred for disallowance amount to Rs.18.28 crore u/sec. 14A in absence of exempted income. The Ld. AR argued that without the crediting any exempted income the implication of sect 14A is unlawful. The said view was considered by the Coordinate Bench of ITAT, Mumbai in the case of **M/s HDFC Bank Limited vs ACIT** the date of pronouncement **24.08.2016**. The relevant observation of the Coordinate Bench in **para no.4** is reproduced as below:

“4. We have heard the rival submissions and perused the material on record. The sole crux of the disputed issue is that the CIT(A) has erred in sustaining the partial disallowance under section 14A of the Act though there is no exempt income earned during the year and also suo motto disallowance by the assessee. The assessee has filed a modified ground of appeal in the hearing proceedings earlier. But the Honble Tribunal has inadvertently could not adjudicate. The Ld.AR has relied on the catena of judicial decisions, in the absence of exempt income, no disallowance under section 14A of the Act including suo-moto disallowance of the assessee is warranted as under:-

- i) Tejaskiran Pharmachem Industries P. Ltd. v/s DCIT, ITA no. 3307/Mum/2014, order dated 13.12.2017;*
- ii) Sajjan India Ltd. v/s ACIT. (2018) 89 taxmann.com 21 (Mum.);*
- iii) Chand N. Bhojwani v/s DCIT, ITA no.272/Mum./2015, etc., order dated 28.07.2017;*
- iv) HDFC Bank Ltd. v/s ACIT, ITA no.5480 & 5481/Mum./2019, order dated 24.08.2016;*
- v) Chalet Hotels Ltd. v/s DCIT, ITA no.3747/Mum./2019, order dated 11.02.2021;*
- vi) ACIT v/s Sundaram Multipap Ltd., ITA no. 6269/Mum./2017, etc., order dated 15.04.2019.”*

5. The Ld. AR contended that the assessee had erroneously made a suo motu disallowance of expenditure relatable to exempt income under section 14A of the Act in the return of income. It was submitted that during the course of the assessment proceedings, the assessee is entitled to rectify such an incorrect claim and withdraw the said disallowance. The Ld. AR further argued that a specific prayer was made before both the Ld. AO as well as the Ld. CIT(A) for withdrawal of the suo motu disallowance of expenses amounting to Rs.18.28 crore. However, without considering the assessee's submissions, the Ld. AO not only rejected the said request but also proceeded to make an additional disallowance of Rs.24,94,58,174/-, which is bad in law. It was further contended by the Ld. AR that the identical issue has already been examined and adjudicated by the Coordinate Bench of the ITAT, Mumbai ('K' Bench) in the case of **Aditya Birla Nuvo Ltd. v. Addl. CIT**, in **ITA No. 4220/Mum/2015**, vide order dated **22.08.2023**. The relevant observations contained in **paragraph 8** of the said order are reproduced hereunder:

"8. In so far as disallowance of interest of Rs.46.52 Crores which was offered under Rule 8D(2)(i), which is interest cost towards loan which was taken for acquisition of shares of Idea Cellular Limited, but assessee has not earned any exempt income qua these shares, then even if assessee might have offered for disallowance however, if assessee makes claim before the appellate authorities that no disallowance is called for in accordance with the provisions of law, then there cannot be a bar on the assessee to raise such claim. Hence we hold that assessee can raise such claim before the appellate authorities."

6. The Ld. DR contended that the assessee had suo moto disallowed the expenses under sec 14A. The Ld. DR stands in favor of the orders of the revenue

authorities. The Ld. DR invited our attention in the observations of the Ld. CIT(A) in the impugned appellate order in **para no.6.5.9 to 6.5.12.** are reproduced as below:

“6.5.9 In other words, Section 14A bars the deduction of expenditure incurred in relation to exempt income out of taxable income as this would have the effect of artificially inflating the exempt income and thereby deflating the taxable income. The term "expenditure" occurring in section 14A takes into its sweep not only direct expenditure but also all forms of expenditure. regardless of whether they are fixed, variable, direct, indirect, administrative, managerial or financial. The phraseology used in section 14A prohibiting the deduction in respect of expenditure incurred by the assessee in relation to exempt income is thus wide enough to cover all forms of expenses provided they have a bearing with the exempt income. This is based on the principle that expenses must be allocated to that income to which they are connected to avoid distortions in the computation of both taxable as well as exempt income.

6.5.10 The calculation of disallowance u/s 14A is required to be made as per rule 8 D(2) and since appellant without applying Rule 8 D (2)suo-moto declared disallowances only at Rs. 18,28,62,017/- was incorrect hence, order of the A.O. calculating correct disallowance u/s 14A as per rule 8 D (2) is upheld and addition on account of balance amount which the appellant has not disallowed to earn exempt income amounting to Rs.24,94,58,174/-is confirmed.

6.5.11 In view of above, it is clear that CBDT, in exercise of its powers under section 119 of the Act clarifies that Rule 8D read with section 14A of the Act provides for disallowance of the expenditure even where tax payer in a particular year has not earned any exempt income.

6.5.12 In view of the above, I am of the view that the disallowance u/s 14A has to be made towards expenses incurred on earning of the exempted income. Therefore, the A.O. was correct in making disallowance of Rs. 24,94,58,174/- u/s 14A even if appellant had not earned any exempt income during the year under consideration. Hence, Ground of appeal No. 1 raised by appellant is dismissed.”

7. We have heard the rival submissions and carefully considered the material available on record. The assessee raised twofold contentions before the Bench. The first issue relates to the suo motu disallowance of expenses amounting to

Rs.18.28 crore made in the return of income, which was subsequently revised and withdrawn by the assessee during the course of the assessment proceedings. This issue is squarely covered by the decision of the Coordinate Bench of the ITAT, Mumbai in the case of **M/s. Aditya Birla Nuvo Ltd.** (supra), wherein it was held that a suo motu disallowance of expenditure relatable to exempt income can be withdrawn during the assessment proceedings. Respectfully following the said decision, the addition accepted by the Ld. AO amounting to Rs.18,28,62,017/- is deleted.

The second issue pertains to the additional disallowance of expenses amounting to Rs.24,94,58,174/-. It is an undisputed fact that the assessee did not earn any exempt income during the relevant assessment year. Therefore, the provisions of section 14A read with Rule 8D(2) of the Rules are not applicable in the assessee's case. In this regard, we respectfully follow the decision of the Coordinate Bench of the ITAT, Mumbai in the case of **M/s. HDFC Bank Ltd.** (supra). Accordingly, the additional disallowance of Rs.24,94,58,174/- is hereby deleted.

In the result, the appeal filed by the assessee stands allowed.

8. The assessee has also filed a stay application. Since the appeal of the assessee has been allowed and the additions made by the Ld. AO have been deleted, the stay application has become infructuous and is, accordingly, dismissed.

9. In the result, the appeal of the assessee bearing **ITA No.7496/Mum/2025** is allowed and stay application **S.A. No.157/Mum/2025** dismissed as infructuous.

Order pronounced in the open court on 09th day of February 2026.

Sd/-

(MAKARAND VASANT MAHADEOKAR)

ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 09/02/2026

SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)

JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI