

आयकर अपीलिय अधिकरण, 'बी न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री एबी टी वकी, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 2601/Chny/2025
निर्धारण वर्ष / **Assessment Year: 2018-19**

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| Oriental Hotels Ltd No.47, III Floor Paramount Plaza, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 0034. | vs. | DCIT, Corporate Circle -5(1), Chennai. |
| [PAN: AAACO-0728-N] (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

अपीलार्थी की ओर से/Appellant by : Shri. Vikram Vijayaraghavan,
Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri. K. Ilaiyaraja, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 18.12.2025
घोषणा की तारीख/Date of Pronouncement : 04.03.2026

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM:

The present appeal is filed by the assessee against the order dated 31.07.2025 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "Id.CIT(A)"), dismissing the appeal filed by the assessee against the assessment order dated 17.02.2021 passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as the "Act"), pertaining to Assessment Year (A.Y.) 2018-19.

2. The assessee is a company engaged in hospitality business, which is a specified business in terms of section 35D(8)(C)(iv) of the Act. For the Assessment Year 2018-19, assessee filed a return of income on 29.11.2018 declaring total income of Rs.8,86,48,670/- and claimed refund of Rs.2,90,58,959/-. Thereafter, intimation u/s.143(1) was issued determining the total income at Rs.9,48,59,398/- against which an appeal was preferred by the assessee, which got dismissed. Subsequently, the assessee's case was selected for scrutiny under CASS and accordingly statutory notices u/s.143(2) and 142(1) of the Act were issued upon the assessee who had responded to the same from time to time. Thereafter, the Assessing Officer passed the assessment order dated 17.02.2021, wherein disallowance on account of section 14A of the Act r.w.r 8D was made to the tune of Rs.7,46,949/-. That apart, in the computation sheet and in carry forward of losses, certain errors have crept in and the assessee was aggrieved by all of them and had filed an appeal before the Id.CIT(A), which ultimately came to be partly allowed and against the order of the Id.CIT(A), the assessee is in appeal before us. Subsequent to the hearing of the present appeal, the assessee filed its written submission, wherein it was stated that ground Nos.3, 4, 4.1, 4.2, 5, additional ground No.4 has become academic in nature, since the Assessing Officer had given effect to the order of the Id.CIT(A). Accordingly, we proceed to adjudicate only ground no.2 and additional ground nos.1 to 3 that are before us.

3. The brief facts emanating from the records leading to the issues to be adjudicated are as follows:

For the Assessment Year 2018-19, Assessee filed its return of income on 29.11.2018 declaring total income of Rs.8,86,48,670/- and claimed refund of Rs.2,90,58,959/-. The return of income was processed vide intimation u/s.143(1) of the Act dated 25.01.2021 wherein, the gross total income was determined at Rs.9,48,59,398/- as against Rs.8,86,48,670/- declared by the assessee. Subsequently, the case was taken up for scrutiny under CASS and

the assessment order u/s.143(3) of the Act came to be passed on 17.02.2021, wherein, the disallowance was made on account of section 14A read with rule 8D to the tune of Rs.7,46,949/-.

Against the order of intimation, the assessee preferred both rectification petition u/s.154 of the Act as well as the appeal before the Id.CIT(A). Against the assessment order u/s.143(3) of the Act, assessee preferred an appeal before the Id.CIT(A).

4. Before the Id.CIT(A) against the said intimation order, the assessee contended the income from business was determined at Rs.9,04,58,562/- as against Rs.8,42,47,834/- by making an addition of Rs.62,10,728/- u/s.143(1) of the Act. Further, the brought forward loss was set off only to the extent of Rs.8,42,47,834/- as claimed in the ITR instead of setting off correct carry forward business loss to the extent of profits determined at Rs.9,04,58,562/- and thereby the gross total income was wrongly determined at Rs.9,48,59,398/- as against Rs.8,86,48,670/-.

The assessee was under the strong belief that the additions made in the intimation u/s.143(1) of the Act would be deleted on the basis of petition for rectification and appeal filed against the intimation u/s.143(1) of the Act. In that view of the matter, the assessee again did not raise the issue in the appeal against the assessment order u/s.143(3) of the Act.

The orders were passed by the Id.CIT(A) dated 07.10.2021 and 14.10.2021 by rejecting the appeals filed against the intimation order u/s.143(1) of the Act and the order u/s.154 of the Act respectively, concluded that, since the assessment order u/s.143(3) of the Act has been passed subsequently, the intimation u/s.143(1) of the Act got subsumed and merged in the said assessment order passed u/s.143(3) of the Act; the assessee has already filed an appeal against the assessment u/s.143(3) of the Act and hence this appeal becomes infructuous.

As per the directions given by the Id.CIT(A) in his separate orders dated 7.10.2021 & 14.10.2021 (on appeal u/s.143(1) and u/s.154) and given the fact that the starting point of assessment order u/s.143(3) of the Act was the income determined in the intimation u/s.143(1) of the Act, the Assessee raised 3 additional grounds in the appeal filed against the assessment order u/s.143(3) of the Act before the Id.CIT(A) on 18.10.2021 by objecting for adopting the income determined in the intimation.

However, the Id.CIT(A) in the impugned order dated 31.07.2025 did not adjudicate the above additional grounds of appeal stating that he is not inclined to adjudicate upon the other aspects raised in the main grounds of appeal and the additional grounds stating they were general or omnibus in nature, lacking specific arguments and that the core issues raised namely disallowance u/s.14A r.w.r 8D and the consequential adjustment of brought forward specified business losses have already been addressed and resolved on merits.

Thus, the issues that need to be adjudicated by us are twofold. One is regarding the disallowance u/s.14A r.w.r 8D for an amount of Rs.7,46,949/- both on normal computation as well as book profit computation u/s.115JB of the Act and the second is the refusal of the Id.CIT(A) to entertain the additional grounds before him.

5. Before us, the Id.AR for the assessee contended as follows on the issue pertaining to disallowance u/s.14A of the Act read with rule 8D.

The assessee had suo-moto disallowed Rs.6,10,051/- on the basis of 50% of salary of one official but the Assessing Officer, disregarded this and without arriving at any satisfaction, had merely held "*...assessee has not contended that it has maintained separate accounts for the expenses incurred for earning exempt income*" and calculated Rule 8D disallowance of Rs.13.57 lakhs. After reducing the assessee's own disallowance at Rs.6,10,051/-, the Assessing Officer had arrived at a final disallowance of Rs.7,46,949/-. The assessee submits that no satisfaction was recorded by the Assessing Officer; there is no

such requirement, as seems to have been posited by Assessing Officer, to maintain separate books of accounts for earning exempt income. This could not be the basis for rejecting assessee's *suo moto* disallowance. The Assessing Officer did not refute the *suo moto* disallowance made by the assessee, in terms of quantum. Thus, invoking Rule 8D is incorrect and the assessee relied on the following judgments:

- i. PCIT v Envestor Ventures Ltd [2021] 123 taxmann.com 378 (Mad)
- ii. PCIT v Atria Power Corporation Ltd [2022] 142 taxmann.com 413 (SC).

In addition, the assessee also submitted that the invocation of Rule 8D while computing the book profits u/s 115JB of the Act by Assessing Officer is without any basis, as upheld by the Special Bench in *ACIT vs Vireet Investments 82 taxmann.com 415*

6. Per contra, the Id.DR relied on the orders passed by the authorities below, filed written submissions reiterating the stand taken by the authorities below and argued that the Id.CIT(A)'s order needs no interference. The Id.DR submitted that the Assessing Officer had stated that the claim is "not acceptable" due to absence of separate accounts and this constitutes "satisfaction".

With regard to the second issue on the refusal of the Id.CIT(A) to entertain the additional grounds before him, the Id.AR submitted that the following additional grounds were raised before the Id.CIT(A), which was refused to be adjudicated by the Id.CIT(A).

1. The Assessing officer erred in adding a sum of Rs.62,10,728/- and determining the income from Business at Rs.9,04,58,562/- as against Rs.8,42,47,834/-.

2. It is submitted that the total income after intra head adjustments was determined at Rs.17,91,07,232/- as against Rs.17,28,96,504/-. However, the brought forward loss was set off only to the extent of Rs.8,42,47,834/- as claimed in the ITR instead of setting off correct carry forward business loss to the extent of profits determined at Rs.9,04,58,562/- and thereby determining the gross total income at Rs.9,48,59,398/- as against Rs.8,86,48,676/-.

3. The appellant craves leave to file additional grounds at the time of hearing.”

It was thus prayed that the additional grounds raised by the assessee before the Id.CIT(A) be adjudicated on merits by the Id.CIT(A) and to that extent, the matter may be remitted to the file of the Id.CIT(A).

7. We have heard the rival submissions, gone through the orders of the authorities below and the documents placed before us.

With respect to the issue on disallowance u/s.14A of the Act r.w.r 8D, we find force in the arguments of the assessee, whereby we hold that “satisfaction” of the Assessing Officer that, the suo moto computation of disallowance made by the assessee on account of expenditure incurred for earning exempt income is improper, is needed before invoking rule 8D computation mechanism. Reliance is placed on the Hon’ble Jurisdictional High Court in the case of Envestor Ventures Ltd (supra), wherein it was held that,

“13. The provisions of section 14A themselves are very clear and without recording satisfaction by the Assessing Authority that the expenditure incurred to earn exempted income, as computed by the Assessee is not acceptable for the specified reasons, the Assessing Authority cannot even resort to computation of such disallowance under rule 8D of the Rules. Despite this being the position of law crystal clear and there being no other contrary view from any other High Court, one fails to understand how the Tribunal in the impugned order could still take a view contrary to this legal position and uphold the disallowance under Rule 8D read with section 14A of the Act, much beyond the quantum of exempted income of dividend earned by the Assessee in this year. The misconception of the Assessing Authority as well as Tribunal appear to have arisen because they have read Rule 8D providing for computation method of disallowance in isolation, as if it were an island provision or stand alone charging provision and they assumed that the disallowance as computed under Rule 8D is to be taxed as a notional income of the Assessee. This is absolutely impermissible in law. The reach of computation provision, namely Rule 8D cannot be read beyond the parent provision of Section 14A itself, which itself is not a charging provision, but a restriction on allowance of expenditure incurred to earn exempted income. The Assessing Authority has to mandatorily record his satisfaction with regard to the proportionate disallowance of expenditure under section 14A of the Act as made by the Assessee that it is not satisfactory for such cogent reasons as specified and therefore, the same is liable to be rejected and therefore, the computation method under Rule 8D can be invoked as a legislative way out to compute the quantum of disallowance. Unfortunately, the Revenue Authority and the Tribunal have read Rule 8D without context and as an independent provision of

disallowance, as if it was an island provision of law and the disallowance computed as per Rule 8D of the Rules can go beyond the exempted income itself and can be added as a taxable income in the hands of the Assessee. Such an interpretation put by Revenue Authorities is pathetic, to say the least."

In the present case, we find that no such satisfaction emanates from the assessment order. The Assessing Officer merely stating that claim was "not acceptable" does not amount to "satisfaction" that the suo moto computation arrived at by the assessee is erroneous. The "satisfaction" even though is a subjective realm of the Assessing Officer, is required to be reduced in writing clearly discernible from the order. That is the fundamental requirement expected of any quasi-judicial authority. Absence of the same, vitiates the disallowance in this case. We accordingly, allow this ground in favour of the assessee and direct the Assessing Officer to delete the disallowance computed by the Assessing Officer u/s.14A of the Act read with rule 8D.

With respect to the second issue on non-adjudication of the additional grounds by the Id.CIT(A), we deem it fit and proper to remit the issues back to the file of the Id.CIT(A) to adjudicate the additional grounds raised by the assessee before the Id.CIT(A). Accordingly we direct the Id.CIT(A) to adjudicate the issues on merits in respect of the (a) errors in considering the declared income, (b) Intra head adjustment of income, (c) set off of business income against the carried forward losses and (d) consequently compute the gross total income and pass the order in accordance with law, after affording opportunity to the assessee to present its case. This ground is accordingly allowed in favour of the assessee, for statistical purpose.

8. In this result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 04th March, 2026 at Chennai.

Sd/-

(एबी टी वर्की)

(ABY T VARKEY)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 04th March, 2026

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF

Sd/-

(एस. आर. रघुनाथा)

(S.R.RAGHUNATHA)

लेखासदस्य/Accountant Member