

आयकर अपीलीय अधिकरण, हैदराबाद पीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'A' Bench, Hyderabad**  
श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT**  
**AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A. No.1781 & 1782/Hyd/2025  
(निर्धारणवर्ष/ **Assessment Year: 2017-18 & 2018-19**)

Assistant Commissioner of Income Tax, Circle-5(1), Hyderabad.	Vs.	Ushodaya Enterprises Private Limited, Hyderabad. PAN: AAACU2690P
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>
करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri H. Srinivasulu, Advocate
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Shri Mathivanan S A, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	04/03/2026
घोषणा की तारीख/ Date of Pronouncement	:	13/03/2026

**ORDER**

**PER MADHUSUDAN SAWDIA, A.M.:**

The captioned appeals are filed by the Revenue feeling aggrieved by the different orders passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") dated 01/08/2025 & dated 07/08/2025 for the Assessment Year ("A.Y.") 2017-18 and A.Y. 2018-19 respectively. Since both the appeals are related to the same assessee, they

are heard together and one consolidated order is being passed for the sake of brevity.

**ITA NO. 1781/HYD/2025 for A.Y. 2017-18 :**

2. The Revenue has raised the following grounds of appeal:

“1. The learned CIT(A) erred in law and on facts in deleting the disallowance made under Section 14A read with Rule 8D, without appreciating that the Assessing Officer had duly recorded his satisfaction, as mandated by Section 14A(2), regarding the incorrectness of the assessee computation of disallowable expenditure in relation to exempt income.

2. The CIT(A) erred in holding that only those investments which actually yielded exempt income during the year are to be considered for Rule 8D computation, contrary to the express language of Section 14A, Rule 8D, and CBDT Circular 5/2014, which do not require actual receipt of exempt income as a precondition for disallowance.

3. The CIT(A) erred in accepting the assessee claim that investments were made exclusively from surplus own funds, without considering that the assessee also had interest-bearing borrowed funds and both sets of funds formed a common pool. In the absence of a clear and direct nexus between interest-free funds and investments, the possibility that borrowed funds may have been used cannot be ruled out.

4. The CIT(A) erred in excluding growth-oriented mutual funds from the ambit of Section 14A/Rule 8D merely because they did not yield exempt income during the year, even though such investments are inherently capable of producing exempt income (dividends), thus attracting the provisions of Section 14A.

5. The order of the CIT(A) is contrary to the express provisions of law, the legislative intent of Section 14A, applicable CBDT Circulars, and established judicial precedents. The order of the Assessing Officer may therefore be restored in the interests of justice.

6. The appellant craves leave to add, alter, amend, or withdraw any ground(s) of appeal at the time of hearing.”

3. The brief facts of the case are that the assessee is a company engaged in the business of publishing and sale of newspapers, manufacture and sale of food products, generation and sale of wind/solar power and conducting events such as educational and business fairs, etc. The assessee filed its return of income for Assessment Year 2017–18 on 31.10.2017, declaring a total income

of Rs.234,49,73,300/-. Subsequently, a revised return of income was filed on 01.03.2019, declaring total income of Rs.221,45,69,790/-. The case of the assessee was selected for scrutiny and notice under section 143(2) of the Income Tax Act, 1961 ("the Act") was issued by the Learned Assessing Officer ("Ld. AO") on 09.08.2018. Thereafter, the Ld. AO completed the assessment under section 143(3) of the Act on 28.12.2019, making a disallowance of Rs.3,34,45,018/- under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ( " the Rules") to the income computed by the CPC under section 143(1) at Rs. 223,89,67,030/-, and assessed the total income of the assessee at Rs.227,24,12,048/-.

4. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) allowed the appeal of the assessee and deleted the disallowance made by the Ld. AO under section 14A of the Act.

5. Against the said order of the Ld. CIT(A), the Revenue is in appeal before us. At the outset, the Learned Departmental Representative ("Ld. DR") submitted that the solitary issue arising from the grounds of appeal of the Revenue relates to the deletion of the disallowance of Rs.3,34,45,018/- made by the Ld. AO under section 14A of the Act read with Rule 8D of the Rules. Inviting our attention to para no. 4 of the assessment order, the Ld. DR submitted that the assessee had opening investments of Rs.208,03,64,000/- and closing investments of Rs.352,65,48,000/-, the income from which was exempt. It was further submitted that during the year under consideration, the assessee had earned exempt income of Rs.7,37,69,646/-. The Ld. AO

computed the disallowance of Rs.3,34,45,018/- under Rule 8D of the Rules by applying 1% of the annual average of the monthly average of the opening and closing investments, which was strictly in accordance with the provisions of section 14A of the Act read with Rule 8D of the Rules. The Ld. DR further invited our attention to para no. 7 of the order of the Ld. CIT(A) and submitted that the Ld. CIT(A) erred in deleting the disallowance made by the Ld. AO on the ground that the investments considered by the Ld. AO included investments which did not yield exempt income during the year and that the assessee had sufficient own funds for making the investments. It was therefore contended that the disallowance made by the Ld. AO was in accordance with the provisions of law and the Ld. CIT(A) was not justified in deleting the same. Accordingly, the Ld. DR prayed that the order of the Ld. CIT(A) be set aside and that of the Ld. AO be restored.

6. Per contra, the Learned Authorised Representative (“Ld. AR”) relied upon the order of the Ld. CIT(A) and also supported the order of the Ld. CIT(A) in terms of Rule 27 of the ITAT Rules, 1963 by raising certain objections. The Ld. AR submitted that as per para no. 4.4 of the assessment order, the Ld. AO had not recorded proper satisfaction before rejecting the suo motu disallowance made by the assessee and recomputing the disallowance under Rule 8D of the Rules. It was contended that the satisfaction recorded by the Ld. AO was mechanical in nature and therefore the disallowance made under section 14A of the Act was liable to be deleted. Secondly, the Ld. AR submitted that the assessee had sufficient own funds for making the investments. In this regard, it

was submitted that as on 31.03.2016, the cost of total investments of the assessee were Rs.231.66 crores, whereas the own funds of the assessee in the form of share capital and reserves amounted to Rs.1,138.75 crores. Similarly, as on 31.03.2017, the cost of total investments of the assessee were Rs.376.05 crores, whereas the own funds were Rs.1,328.35 crores. It was therefore contended that since the interest-free own funds available with the assessee were far in excess of the investments, no disallowance under section 14A of the Act could be made.

7. In the alternative, the Ld. AR submitted that the average investment of Rs.346.63 crores considered by the Ld. AO for the purpose of Rule 8D of the Rules included investments amounting to Rs.306.55 crores which did not yield any exempt income during the year under consideration. Relying upon the decision of the Hon'ble Delhi High Court in the case of ACB India Ltd. Vs. ACIT (2015) 374 ITR 108 (Del) and the decision of the Special Bench of the Tribunal in the case of ACIT Vs. Vireet Investment Pvt. Ltd. (2017) 58 ITR(T) 313, the Ld. AR submitted that only those investments which yielded exempt income during the relevant year could be considered for the purpose of computing disallowance under Rule 8D of the Rules. Accordingly, it was submitted that even if any disallowance was to be made under section 14A of the Act, the same should be restricted only to the investments which yielded exempt income during the year.

8. We have heard the rival submissions and carefully gone through the material available on record, including the judicial precedents relied upon by the

parties. At the outset, it is noticed that the assessee has not filed any cross appeal or cross objection against the order of the Ld. CIT(A). However, under Rule 27 of the ITAT Rules, 1963, the assessee is entitled to support the order of the Ld. CIT(A) on any ground decided against it. Accordingly, the objections raised by the assessee in support of the order of the Ld. CIT(A) have been considered. The first objection raised by the Ld. AR is that the Ld. AO has not recorded proper satisfaction before invoking the provisions of section 14A of the Act read with Rule 8D of the Rules. In this regard, we have gone through the grounds of appeal raised by the assessee before the Ld. CIT(A), which has been extracted by the Ld. CIT(A) at para no. 4 of its order, which is to the following effect :

“4. Grounds of Appeal

The appellant has raised the following grounds of appeal:

Ground No. 1. The Order of the Asst. Commissioner of Income Tax, Circle - 16(2), Hyderabad dated 28-12-2019 passed u/s 143(3) of the Income Tax Act, is erroneous, contrary to law and facts of the case.

Ground No. 2. The Assessing Officer ought to have seen that investments considered for disallowance u/s.14A r.w.r.8D(2) consists of Growth Oriented and income yielding mutual funds which were all made out of Appellant's own funds. Income from income yielding mutual funds was directly credited to Appellant's bank account by Mutual funds. The Assessing Officer also ought to have seen that the Appellant itself disallowed Rs. 12,17,882/- towards salaries of two employees who are looking after investments and professional fee paid to adviser, who advised on making investments in mutual funds. Hence the Assessing Officer is not justified in disallowing further amount of Rs.3,34,45,018/-u/s. 14A r.w.r.8D(2).

Ground No. 3. For all of the above and such other grounds as may be urged at the time of hearing it is prayed that the appeal be allowed and suitable directions be issued to the Assessing Officer to delete disallowance made u/s. 14A r.w.r.8D(2) in the interest of justice.”

9. On perusal of above, we find that no such ground regarding improper recording of satisfaction was raised by the assessee before the Ld. CIT(A). We

have also gone through the summary of findings and decision of the Ld. CIT(A) placed at para no. 7 of it's order, which is to the following effect:

“Summary of Findings and Decision

The Assessing Officer made a disallowance of Rs.3,34,45,018/- under Section 14A read with Rule 8D for Assessment Year 2017-18. This disallowance was primarily based on a presumption that borrowed funds were utilized for investments yielding exempt income and on the reliance of CBDT Circular 5/2014.

The appellant consistently argued that its investments were made from substantial own funds, that a significant portion of its investments (specifically growth-oriented mutual funds) did not yield exempt income during the year (their primary income being taxable capital gains), and that no direct expenditure was incurred for earning the exempt dividends. The appellant also highlighted its proactive self-disallowance of Rs.12,17,882/-.

The legal analysis, particularly in light of numerous High Court decisions and the Supreme Court's dismissal of SLPs for AY 2017-18, strongly supports the principle that Section 14A disallowance is not attracted for investments that did not yield exempt income during the year. Furthermore, the availability of sufficient own funds generally negates the presumption of using borrowed funds for exempt income-generating investments, unless a direct nexus is proven by the Assessing Officer. The significant discrepancy in investment figures between the AO's fair value method and the appellant's actual value method also points to a need for a valuation approach that appropriately reflects the actual funds deployed for tax purposes under Rule 8D.

Based on the facts presented and the prevailing judicial precedents for AY 2017-18, the Assessing Officer's disallowance of Rs.3,34,45,018/-under Section 14A read with Rule 8D is unsustainable to the extent it includes investments not yielding exempt income and where own funds were demonstrably sufficient. The Assessing Officer is directed to delete the disallowance of Rs. 3,34,45,018/- made under Section 14A read with Rule 8D.”

10. On perusal of above, it is evident that the Ld. CIT(A) has also not adjudicated the issue regarding improper recording of satisfaction in the impugned order. Therefore, in our considered view, the assessee cannot be permitted to raise a completely new ground under Rule 27 of the ITAT Rules, 1963 which was neither raised before nor decided by the Ld. CIT(A). Rule 27 of the ITAT Rules, 1963 only permits the respondent to support the order of the lower authority on grounds decided against it and does not permit raising an

altogether new issue which was never the subject matter of adjudication before the Ld. CIT(A). Accordingly, the objection of the assessee regarding alleged improper recording of satisfaction by the Ld. AO is rejected.

11. The second objection raised by the assessee is that the assessee had sufficient interest-free own funds for making the investments and therefore no disallowance under section 14A of the Act could be made. In this regard, we have gone through the para no. 4 of the order of the Ld. AO, which is to the following effect :

4.1 It is observed from the Balance Sheet that the assessee-company has investments to the tune of Rs. 2,43,34,65,000/- as on 31.03.2016. During the course of assessment proceedings, the assessee-company was asked to explain as to why the provisions of Sec. 14A shall not be applied as the company has made investment which yield exempted income. In response to this, the A.R. of the assessee-company vide its submission dt. 22.12.2018 replied as under –

*" Regarding applicability of provisions of Sec-14A to our Company, we submit that the Company had Reserves of Rs.1308.15 Crores as at 31.03.2017 and Rs.1113.76 Crores as at 31.03.2016 and investment held on respective dates were Rs.376.05 Crores and Rs.231.66 Crores which are less than such reserves. We also submit that Company had earned Net Income of Rs.300.62 Crores during the year after charging depreciation of Rs.72.11 Crores. Thus the Company had generated cash of Rs.372.73 Crores during the year. The above facts establish that we had sufficient own funds to make investment, in earlier years as well as during the year. Therefore, we submit that we have utilized our own surplus funds only for making investments and therefore no disallowance of interest is warranted u/s 14A as no borrowed funds were utilized for making investments. We further submit that we did not incur expenditure for earning dividend as dividends were credited to our bank accounts directly by mutual funds. Regarding dividends were credited to our bank accounts directly by mutual funds. Regarding dividend from Ushakiron Movies Ltd., we submit that entire dividend of Rs.22,50,000/- was received though a single cheque from the said company and thus did not involve any expenditure. We also submit that we are advised for making investments in mutual funds by investment adviser MRs Sajja Divija and for services we have paid Rs.2,40,000/-. During the Asst. Year we had disallowed Rs.12,17,882/- on account of Salaries paid to Two employees who were looking after investments and the above said professional fee. We therefore submit that no further disallowance is warranted u/s 14A r.w.s.8D."*

4.2 The submissions made by the assessee-company are carefully examined with reference to the facts of the case and provisions of sec. 14A as applicable for the impugned Assessment Year.

It was observed from the notes to account that assessee-company has earned exempted income of Rs.7,37,69,646/-. Also debited interest expenses of Rs.25,83,31,754/- towards borrowed funds. In view of this it is presumed that assessee-company has paid more interest on borrowed funds, due to huge investment to earn/yield exempt Income. As per the information submitted by the assessee the closing & opening balances of investment for the financial year 2015-16 2016-17 is Rs.208,03,64,000/- & Rs.352,65,48,000/- respectively. The calculation of disallowance u/s 14A is as under:

Month	Opening Investment (In Rs.)	Closing Investment (In Rs.)	Average Investment (In Rs.)
April, 2016	208,03,64,000	352,65,48,000	280,34,56,000
May, 2016	352,65,48,000	352,65,48,000	352,65,48,000
June, 2016	352,65,48,000	352,65,48,000	352,65,48,000
July, 2016	352,65,48,000	352,65,48,000	352,65,48,000
Aug,2016	352,65,48,000	352,65,48,000	352,65,48,000
Sept, 2016	352,65,48,000	352,65,48,000	352,65,48,000
Oct, 2016	352,65,48,000	352,65,48,000	352,65,48,000
Nov, 2016	352,65,48,000	352,65,48,000	352,65,48,000
Dec, 2016	352,65,48,000	352,65,48,000	352,65,48,000
Jan, 2017	352,65,48,000	352,65,48,000	352,65,48,000

Feb, 2017	352,65,48,000	352,65,48,000	352,65,48,000
March 2017	352,65,48,000	352,65,48,000	352,65,48,000
Total of Monthly Average			41,59,54,84,000

(i)	The amount of expenditure directly relating to income which does not form part of the total income; and	Rs.346,62,90,333/-
(ii)	An amount equal to one percent of the annual average of the monthly averages of the opening and closing balances of the value of investment, income from which does not or shall not form part of the total income.	Rs.3,46,62,900/- Less: Already disallowance shown. Rs.12,17,882/-
Disallowance under section 14A of the Act		Rs.3,34,45,018/-

4.1 In order to examine the contentions of the assessee-company, it is necessary to refer to the relevant provisions of Section 14A of the Act which was introduced by the Finance Act, 2001 with retrospective effect from 01.04.1962. In order to take out the ambiguity in the provisions, the CBDT has also issued a circular in No. 5/2014 in F.No. 225/182/2013-ITA.II, dated 11.02.2014, which reads as under:

**CIRCULAR NO.5/2014 [F.NO.225/182/2013-ITA.II], DATED 11-2-2014**

**SECTION 14A OF THE INCOME-TAX ACT, 1961, READ WITH RULE 8D OF THE INCOME-TAX RULES, 1962 – EXPENDITURE INCURRED IN RELATION TO INCOME NOT INCLUDIBLE IN TOTAL INCOME – CLARIFICATION ON DISALLOWANCE OF EXPENSES UNDER SECTION 14A IN CASES WHERE CORRESPONDING EXEMPT INCOME HAS NOT BEEN EARNED DURING**

## **THE FINANCIAL YEAR**

Section 14A of the Income-tax Act, 1961 ['Act'] provides for disallowance of expenditure in relation to income not "includible" in total income.

2. A controversy has arisen in certain cases as to whether disallowance can be made by invoking section 14A of the Act even in those cases where no income has been earned by an assessee which has been claimed as exempt during the financial year.

3. The matter has been examined in the Board. It is pertinent to mention that section 14A of the Act was introduced by the Finance Act, 2001 with retrospective effect from 01.04.1962. The purpose for introduction of section 14A with retrospective effect since inception of the Act was clarified vide Circular No. 14 of 2001 as under:

"Certain incomes are not includible while computing the total income, as these are exempt under various provisions of the Act. There have been cases where deductions have been claimed in respect of such exempt income. This in effect means that the tax incentive given by way of exemptions to certain categories of income is being used to reduce also the tax payable on the non-exempt income by debiting the expenses incurred to earn the exempt income against taxable income. This is against the basic principles of taxation whereby only the net income, i.e., gross income minus the expenditure, is taxed. On the same analogy, the exemption is also in respect of the net income. Expenses incurred can be allowed only to the extent they are relatable to the earning of taxable income".

Thus, legislative intent is to allow only that expenditure which is relatable to earning of income and it therefore follows that the expenses which are relatable to earning of exempt income have to be considered for disallowance, irrespective of the fact whether any such income has been earned during the financial year or not.

4. The above position is further clarified by the usage of term 'includible' in the Heading to section 14A of the Act and also the Heading to Rule-8D of I.T. Rules, 1962 which indicates that it is not necessary that exempt income should necessarily be included in a particular year's income, for disallowance to be triggered. Also, section 14A of the Act does not use the word "income of the year" but "income under the Act". This also indicates that for invoking disallowance under section 14A, it is not material that assessee should have earned such exempt income during the financial year under consideration.

5. The above position is further substantiated by a language used in Rule 8D(2)(ii) & 8D(2)(iii) of I.T. Rules which are extracted below:

"(ii) in a case where the assessee has incurred expenditure by way of interest

*during the previous year which is not directly attributable to any particular income or receipt of amount computed in accordance with the following formula, namely:—*

*A\*B/C*

*Where .....*

*B=the average of value of investment, income from which does not or shall not form part of the total income as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year;"*

*(iii) an amount equal to one-half percent of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance-sheet of the assessee, on the first day and the last day of the previous year."*

*6. Thus, in light of above, Central Board of Direct Taxes, in exercise of its powers under section 119 of the Act hereby clarifies that Rule 8D read with section 14A of the Act provides for disallowance of the expenditure even where taxpayer in a particular year has not earned any exempt income."*

4.2 Vide circular referred to above, the CBDT clarified that Rule 8D read with Section 14A of the Act provides for disallowance of expenditure even where taxpayer in a particular year has not earned any exempt income.

4.3 Rule 8D of the Income tax Rules, 1961 have been modified w.e.f 02/06/2016 which is read as under:

**1. Where the Assessing Officer, having regard to the account of the assessee of a previous year, is not satisfied with-**

**(a) the correctness of the claim of expenditure made by the assessee; or**

**(b) the claim made by the assessee that no expenditure has been incurred, in relation to income which does not form part of the total income under the Act for the such previous year, he shall determine the amount of expenditure in relation to such income in accordance with the provisions of sub-rule (2).**

**2. The expenditure in relation to income which does not form part of the total income shall be aggregate of following amounts, namely;-**

**(i). the amount of expenditure directly relating to income which does not form part of the total income; and**

**(ii). An amount equal to one per cent of the annual average of the monthly averages of the opening and closing balances of the value of investment,**

*income from which does not or shall not form part of the total income:*

*provided that the amount referred to in clause (i) and clause (ii) shall not exceed the total expenditure claimed by the assessee.*

4.4 Having satisfied that on the facts of the case the provisions of Section 14A read with Rule 8D (i) and 8D (ii) of the I.T. Act, 1961 are attracted, the quantum of disallowance is worked out as per the formula provided in Rule 8D as under:

4.5 In view of the above, the disallowance u/s. 14 A was worked out to Rs. 3,34,45,018/-. Hence, the expenditure debited to P& L account to earn exempt income to the tune of Rs.3,34,45,018/- is disallowed and added back to the income of the assessee.

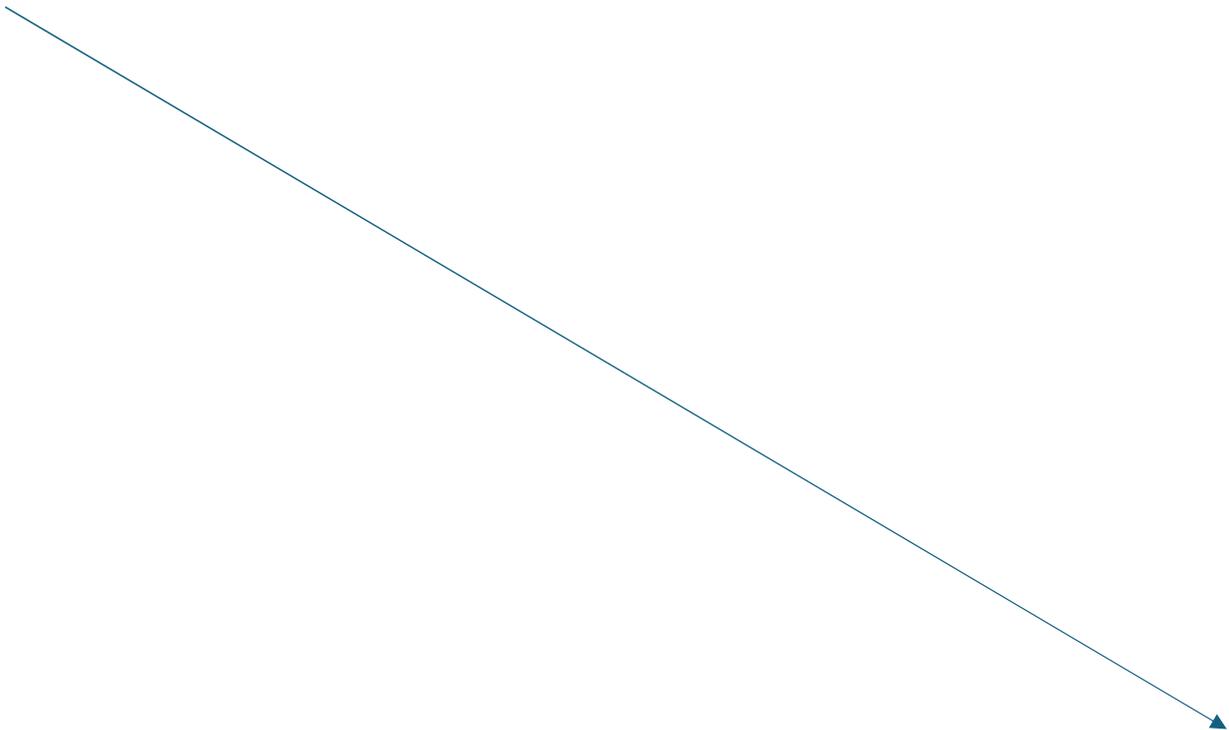
**[Addition: Rs.3,34,45,018/-]**

12. On perusal of the above, we find that the Ld. AO has not made any disallowance on account of interest expenditure. The disallowance made by the Ld. AO pertains only to administrative expenditure under Rule 8D(2)(ii) of the Rules. Therefore, the availability of sufficient own funds with the assessee does not have any relevance in the context of the disallowance made by the Ld. AO. Accordingly, this objection of the assessee is also rejected.

13. At this stage, we also find merit in the submissions of the Ld. DR to the limited extent that the Ld. CIT(A) has deleted the entire disallowance made by the Ld. AO primarily on the reasoning that the assessee had sufficient own funds and that the investments considered by the Ld. AO included investments which had not yielded exempt income during the year under consideration. Further, it is an undisputed fact emerging from the record that the assessee has earned exempt income of Rs.7,37,69,646/- during the year under consideration. Therefore, the existence of exempt income during the year is not in dispute. In such circumstances, merely because certain investments have not yielded

exempt income during the year, the entire disallowance made under section 14A of the Act cannot be deleted when admittedly there are investments which have yielded exempt income during the relevant year.

14. Now coming to the alternate contention of the assessee that only those investments which have yielded exempt income during the year should be considered for the purpose of computing disallowance under Rule 8D of the Rules, we have gone through the judicial precedents relied upon by the Ld. AR. On perusal of the same, we find that the Hon'ble Delhi High Court in *ACB India Ltd. v. ACIT*(supra) has held that while computing disallowance under Rule 8D of the Rules, only those investments which have yielded exempt income during the relevant year should be considered. The relevant portion of the order of the Hon'ble Delhi High Court contained at para nos. 7 and 8 are reproduced as under :



7. The question of law urged on behalf of the assessee is whether the decision of the Income-tax Appellate Tribunal as to the disallowance under section 14A of the Income-tax Act, 1961, is in error of law in the circumstances of the case. For the assessment year 2008-09, the assessee-which is mainly engaged in the business of coal preparation, i.e., beneficiation of coal, transportation, loading of coal and related activities had reported a tax exempt income to the tune of Rs. 18,26,360 amongst other heads of income. The Assessing Officer added back Rs. 19,96,242 under section 14A. While doing so, the Assessing Officer applied rule 8D by taking into consideration the total quantum of interest other than that invested under section 14A in terms of rule 8D and arrived at the said figure after multiplying it with the result of the average value of investments and over average value of assets derived by him. He thus determined the disallowance of Rs. 19,96,242. The Commissioner of Income-tax (Appeals) went into the record and found that the amount of investment attributable to dividend as on March 31, 2008, was Rs. 3,53,26,800, which constituted less than 1 per cent. of the total scheduled funds. He, however, accepted the basis of calculation applied by the Assessing Officer and directed a disallowance of .05 per cent. of the amount determined to be average investment. The Income-tax Appellate Tribunal to which the Revenue appealed, restored the Assessing Officer's determination holding it to be a true calculation in terms of rule 8D. It is argued by the assessee that since the Commissioner of Income-tax (Appeals) correctly noted the facts as to the value of the investment in tax exempt investment and at the same time noticed that the ultimate result on an application of .05 per cent. disallowance would be the same. Counsel for the Revenue, on the other hand, submitted that given the determination of average value of investment, the Assessing Officer had no choice but to apply rule 8D(2) in view of the mandate of section 14A which required him to apply the prescribed method of determining disallowance. The facts, as disclosed by the Assessing Officer, who expressed his opinion that the claim of the assessee for no disallowance was warranted since no expenditure was incurred had to be rejected. Therefore, the first condition for application of section 14A in this case was fulfilled. In such eventuality the Assessing Officer is required by the mandate of rule 8D to follow rule 8D(2). Clauses (1), (2) and (3) detail the methodology to be adopted. Clauses are of importance, they read as follows :

"8D. Method for determining amount of expenditure in relation to income not includible in total income. (1) Where the Assessing Officer, having regard to the accounts of the assessee of a previous year, is not satisfied with—

- (a) the correctness of the claim of expenditure made by the assessee ; or
- (b) the claim made by the assessee that no expenditure has been incurred,

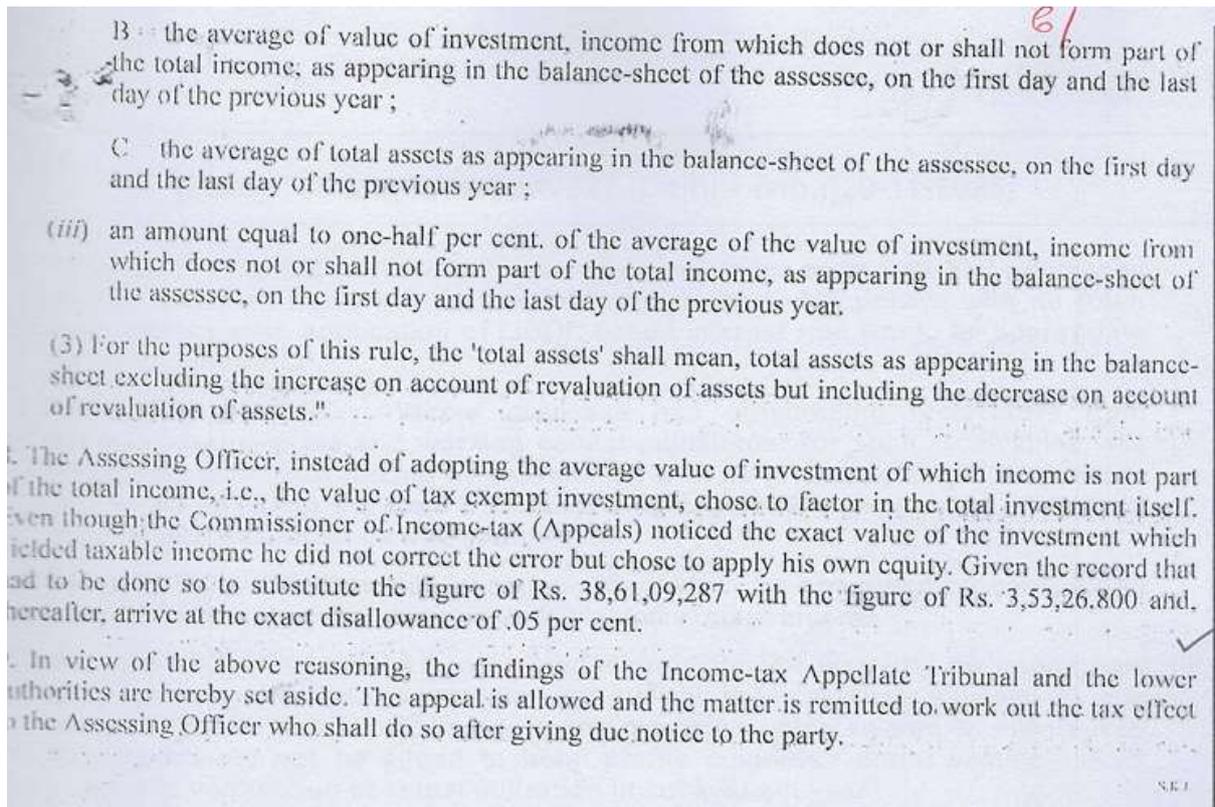
in relation to income which does not form part of the total income under the Act for such previous year, he shall determine the amount of expenditure in relation to such income in accordance with the provisions of sub-rule (2).

(2) The expenditure in relation to income which does not form part of the total income shall be the aggregate of following amounts, namely :—

- (i) the amount of expenditure directly relating to income which does not form part of total income ;
- (ii) in a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt, an amount computed in accordance with the following formula, namely :—

$$\Lambda \frac{B}{C}$$

Where  $\Lambda$  = amount of expenditure by way of interest other than the amount of interest included in clause (i) incurred during the previous year ;



15. Similar view has also been taken by the Special Bench of the Tribunal in the case of ACIT v. Vireet Investment Pvt. Ltd.(supra), wherein it has been held that the computation of disallowance under Rule 8D of the Rules should be confined to the investments which have actually yielded exempt income during the year. The relevant portion of the order of the Tribunal contained at para no. 11 is reproduced as under :

"11. We have considered the submissions of both the parties and have perused the record of the case. The basic issue for consideration is that the investment, which did not yield any exempt income, should enter or not enter into the computation under Rule 8D, while arriving at the average value of investment, income from which does not or shall not form part of the total income.

11.1. In the present case, our decision is restricted only to the extent of interpretation of language employed in Rule 8(2)(iii). The submission of Id. counsel for the assessee is that this issue is now covered by the decision of the Hon'ble Delhi High Court in the case of CIT Vs. Holcin India (P) Ltd. (supra), wherein it has been held that if no dividend income was earned, section 14A could not be invoked.

TA 502/D/12 & CO 68/D/2014 Vireet Investment P. Ltd.

The Hon'ble Delhi High Court has referred to the decisions, which we have noted earlier i.e.:

- CIT v. M/s Shivam Motors (P) Ltd. ITA 88 of 2014 (All.);
- CIT v. Winsome Textile Industries Ltd. 319 ITR 204 (P&H)
- CIT Vs. M/s Lakhani Marketing ITA 970 of 2008 (P&H)
- Corrttech Energy Pvt. Ltd. 223 Taxman 130 (Guj.).
- CIT Vs. Hero Cycles Ltd. 323 ITR 518.

11.2. The submission of Id. Principal CIT(DR) is that ITAT in the case of Delhi Special Bench in the case of Cheminvest Ltd. (supra) has specifically held that even if there is no exempt income, the provisions of section 14A are applicable in view of the decision of Hon'ble Supreme Court in the case of Rajendra Prasad Moody (supra). His submission is that the decision of Hon'ble Delhi Court reversing the decision of Special Bench in Cheminvest should not be followed because that is contrary to the principles laid down in Rajendra Prasad Modi(supra).

11.3. It is against these submissions, we first refer to the facts as were obtaining in these two decisions.

11.4. In the case of Cheminvest Ltd. (supra), the assessee had borrowed funds of Rs. 8,51,65,000/- and during the previous year relevant to assessment year 2004-05 paid interest of Rs. 1,21,02,367/- thereon. Out of this unsecured loan, the assessee invested a sum in purchase of shares, which was shown as investment for the purpose of long term capital gains. The AO disallowed interest proportionate to the investment in shares, though no exempt income was earned during the year. The CIT(A) affirmed this but held that the net interest debited to the P&L A/c was required to be apportioned and not the gross interest expenditure. The Tribunal held that interest expenditure incurred by the assessee was for borrowing used for the purposes of investment in shares, both held for trading as well as investment purposes. Irrespective of whether or not there was any yield of dividend on the shares purchased, the interest incurred was relatable to earning of dividend on the shares purchased. The dividend income being exempted from tax by virtue of section 10(34) of the Act, the interest paid on borrowed capital utilized in purchase of shares, being the expenditure incurred in relation to dividend income not forming part of the assessee's total income, was held to be not an allowable deduction. In coming to the conclusion, the Special Bench primarily relied on the ratio laid down by the Hon'ble Supreme Court in the case of Rajendra Prasad Moody (supra).

11.5. In the case of Rajendra Prasad Moody (supra), the facts were that the assessees were brothers and each of them had borrowed moneys for the

purposes of making investment in shares of certain companies. During the relevant assessment year they paid interest on the moneys borrowed but did not receive any dividend on the shares purchased with these moneys. Both of them made a claim for deduction of the amount of interest paid on borrowed moneys but this claim was negated by the ITO and on appeal by the AAC on the ground that during the relevant assessment year the shares did not yield any dividend and, therefore, interest paid on the borrowed moneys could not be regarded as expenditure laid out or expended wholly and exclusively for the purposes of making or earning income chargeable under the head 'income from other sources', so as to be allowable as a permissible deduction u/s 57(iii). The Tribunal, however, on further appeal, disagreed with the view taken by the taxing authorities and upheld the claim of each of the two assesseees for deduction u/s 57(iii).

11.6. In the backdrop of these facts the Tribunal's order was upheld by the Hon'ble High Court and Hon'ble Supreme Court. The Hon'ble Supreme Court, inter alia, held that it is the purpose of the expenditure that is relevant in determining the applicability of section 57(iii) and that purpose must be making or earning of income. It was further held that section 57(iii) does not require that this purpose must be fulfilled in order to qualify the expenditure for deduction. It does not say that the expenditure shall be deductible only if any income is made or earned. There is in fact nothing in the language of section 57(iii) to suggest that the purpose, for which the expenditure is made, should fructify into any benefit by way of return in the shape of income.

11.7. Thus, in both the decisions viz. in the case of Cheminvest Ltd. (supra), and in the case of Rajendra Prasad Moody (supra), the issue related to allowability of expenditure which had direct nexus with the earning of income. The borrowing in both the cases has not been disputed being for acquiring shares. Hon'ble Delhi High Court has specifically held in para 21 as under:-

"21. There is merit in the contention of Mr. Vohra that the decision of the Supreme Court in Rajendra Prasad Moddy (supra) was rendered in the context of allowability of deduction under Section 57(iii) of the Act, where the expression used is 'for the purpose of making or earning such income'. Section 14A of the Act on the other hand contains the expression 'in relation to income which does not form part of the total income.' The decision in Rajendra Prasad Moody (supra) cannot be used in the reverse to contend that even if no income has been received, the expenditure incurred can be disallowed under Section 14A of the Act."

11.8. In the case of Holcin India (P) Ltd. (supra) the facts were that the respondent- assessee was a subsidiary of Holderind Investments Ltd., Mauritius, which was formed as a holding company for making downstream investments in cement manufacturing ventures in India. In the return of income filed for the Assessment Year 2007-08, the respondent-assessee declared loss of Rs. 8.56 Crores approximately. The respondent-assessee had declared revenue receipts of Rs. 18,02,274/- which included interest of Rs. 726/- from Fixed Deposit Receipts and profit on sale of fixed assets of Rs. 16,52,225/-. As against this, the respondent assessee had claimed administrative and miscellaneous expenditure written off amounting to Rs. 8.75 Crores. For the Assessment Year 2008-09, the assessee had filed return declaring loss of Rs. 6.60 Crores approximately. The assessee had declared revenue receipts in the

form of foreign currency fluctuation difference gain of Rs. 12,46,595/-. It had claimed expenses amounting to Rs. 7.02 Crores as personal expenses, operating and other expenses, depreciation and financial expenses.

11.9. In both the assessment orders, the Assessing Officer held that the respondent-assessee had not commenced business activities as they had not undertaken any manufacturing activity or made downstream investments. It was observed that the respondent- assessee, after receiving approval of Foreign Investment Promotion Soard (FIPS) dated 20.12.2000 acquired shares capital of Ambuja Cement India Ltd. This, the Assessing Officer felt, was not sufficient to indicate or hold that the respondent-assessee had started their business. He, accordingly, disallowed the entire expenditure of Rs. 8.75 Crores for the Assessment Year 2007-08 and Rs. 7.02 Crores for the Assessment Year 2008-09.

11.10. Ld. CIT(A) did not agree with the findings of Assessing Officer that the business of the respondent- assessee had not been set up or commenced. The CIT(A) observed that the respondent-assessee had been set up with the business objective of making investment in cement industry after due approval given by the Government of India, Ministry of Commerce and Industry vide letter dated 18.12.2002 and 20.12.2012. It was observed that in fact, the respondent-assessee was not to undertake any manufacturing activity themselves. After considering the FIPS approval and the purchase of shares in the said company of Rs. 1850.91 crores, Id. CIT(A), inter alia, observed that the assessee was engaged in the business of holding of investment and was entitled to claim expenditure provided. There was a direct connection between expenditure incurred and business of the assessee company. However, he pointed out that since the business of the respondent assessee was to act as a holding company for downstream investment and as it was an accepted fact that they had incurred expenses to protect their business and explore new avenues of investment, the provisions of section 14A were applicable.

11.11. The Hon'ble High Court observed that the reasoning given by the CIT(A) was ambiguous and unclear and on clarity being sought from the Revenue it was pointed out that "the stand of the assessee contained a contradiction to the extent that on the issue of setting up of business, it was stated that the assessee had incurred expenditure on acquiring the shares, therefore, the assessee could not now take different stand than the one taken in the first issue".

11.12. The Hon'ble High Court, after considering in detail the decision of Id. CIT(A) finally observed in para 13 as under:

*"13. We are confused about the stand taken by the appellant-Revenue. Thus, we had asked Sr. Standing Counsel for the Revenue, to state in his own words, their stand before us. During the course of hearing, the submission raised was that the shares would have yielded dividend, which would be exempt income and therefore, the CIT(A) had invoked Section 14A to disallow the entire expenditure. The aforesaid submission does not find any specific and clear narration in the reasons or the grounds given by the CIT(A) to make the said addition. Possibly, the CIT(A), though it is not argued before us, had taken the stand that the respondent-assessee had made investment and expenditure*

*was incurred to protect those investments and this expenditure cannot be allowed under Section 14A.*

11.13. Thus, Hon'ble Delhi High Court primarily decided the issue regarding applicability of section 14A even if no dividend income was earned. The Hon'ble High court in paras 14 to 16 of its decision observed as under:

*"14. On the issue whether the respondent-assessee could have earned dividend income and even if no dividend income was earned, yet Section 14A can be invoked and disallowance of expenditure can be made, there are three decisions of the different High Courts directly on the issue and against the appellant-Revenue. No contrary decision of a High Court has been shown to us. The Punjab and Haryana High Court in Commissioner of Income Tax, Faridabad vs. M/s. Lakhani Marketing Incl., ITA No. 970/2008, decided on 02.04.2014, made reference to two earlier decisions of the same Court in CIT vs. Hero Cycles Limited, [2010]323 ITR 518 and CIT vs. Winsome Textile Industries Limited, [2009] 319 ITR 204 to hold that Section 14A cannot be invoked when no exempt income was earned. The second decision is of the Gujarat High Court in Commissioner of Income Tax-I vs. Corrttech Energy (P.) Ltd. [2014] 223 Taxmann 130 (Guj.). The third decision is Of the Allahabad High Court in Income Tax Appeal No. 88 of 2014, Commissioner of Income Tax (Ii) Kanpur, vs. M/s. Shivam Motors (P) Ltd. decided on 05.05.2014. In the said decision it has been held:-*

*"As regards the second question, Section 14A of the Act provides that for the purposes of computing the total income under the Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act. Hence, what Section 14A provides is that if there is any income which does not form part of the income under the Act, the expenditure which is incurred for earning the income is not an allowable deduction. For the year in question, the finding of fact is that the assessee had not earned any tax free income. Hence, in the absence of any tax free income, the corresponding expenditure could not be worked out for disallowance. The view of the CIT(A), which has been affirmed by the Tribunal, hence does not give rise to any substantial question of law. Hence, the deletion of the disallowance of Rs.2,03,752/- made by the Assessing Officer was in order"*

*"15. Income exempt under Section 10 in a particular assessment year, may not have been exempt earlier and can become taxable in future years. Further, whether Income earned in a subsequent year would or would not be taxable, may depend upon the nature of transaction entered into in the subsequent assessment year. For example, long term. capital gain on sale of shares is presently not taxable where security transaction tax has been paid, but a private sale of shares in an off market transaction attracts capital gains tax: It is an undisputed position that respondent assessee is an investment company and had invested by purchasing a substantial number of shares and thereby securing right to management. Possibility of sale of shares by private placement etc. cannot be ruled out and is not all improbability. Dividend may or may not be declared. Dividend is declared by the company and strictly in legal sense, a shareholder has no control and cannot insist on payment of dividend. When declared, it is subjected to dividend distribution tax.*

16. what is also noticeable is that the entire or whole expenditure has been disallowed as if there was no expenditure incurred by the respondent-assessee for conducting business. The CIT(A) has positively held that the business was set up and had commenced. The said finding is accepted. The respondent-assessee, therefore, had to incur expenditure for the business in the form of investment in shares of cement companies and to further expand and consolidate their business. Expenditure had to be also incurred to protect the investment made. The genuineness of the said expenditure and the fact that it was incurred for business activities was not doubted by the Assessing Officer and has also not been doubted by the CIT(A).

11.14. Now the position of law as stands is that the decision of Hon'ble Jurisdiction High Court is directly on the point in dispute whereas the decision of Hon'ble Supreme court in the case of Rajendra Prasad Moody (supra) has been rendered in the context of section 57(iii), the applicability of which has been ruled out by Hon'ble Delhi High Court in the case of Cheminvest (supra).

11.15. Under Article 227 of the Constitution of India, the courts function under the supervisory jurisdiction of Hon'ble High Court. The decisions rendered by Hon'ble High Court are binding on all subordinate courts working within its jurisdiction. In this regard we may refer to the following decisions:

*(i) CIT V. Thana Electricity Supply Ltd. (1994) 206 ITR 727 (Bom.), wherein on the issue of "whose decision is binding on whom", the Hon'ble Bombay Court considered in detail the hierarchy of the courts and has observed as under:*

*"It is also well-settled that though there is no specific provision making the law declared by the High Court binding on subordinate courts, it is implicit in the power of supervision conferred on a superior Tribunal that the Tribunals subject to its supervision would conform to the law laid down by it. It is in that view of the matter that the Supreme Court in East India Commercial Co. Ltd. v. Collector of Customs, AIR 1962 SC 1893 (at page 1905) declared :*

*"We, therefore, hold that the law declared by the highest court in the State is binding on authorities or Tribunals under its superintendence, and they cannot ignore it. . . ."*

*This position has been summed up by the Supreme Court in Mahadeolal Kanodia v. Administrator General of West Bengal, AIR 1960 SC 936 (at page 941) as follows :*

*"Judicial decorum no less than legal propriety forms the basis of judicial procedure. If one thing is more necessary in law than any other thing, it is the quality of certainty. That quality would totally disappear if judges of co-ordinate jurisdiction in a High Court start overruling one another's decisions. If one Division Bench of a High Court is unable to distinguish a previous decision of another Division Bench, and holding the view that the earlier decision is wrong, itself gives effect to that view, the result would be utter confusion. The position would be equally bad where a judge sitting singly in the High Court is of opinion that the previous decision of another single judge on a question of law is wrong and gives effect to that view instead of referring the matter to a larger Bench."*

*The above decision was followed by the Supreme Court in Baradakanta Mishra v. Bhimsen Dixit, AIR 1972 SC 2466, wherein the legal position was reiterated in the following words (at page 2469) :*

*"It would be anomalous to suggest that a Tribunal over which the High Court has superintendence can ignore the law declared by that court and start proceedings in direct violation of it. If a Tribunal can do so, all the subordinate courts can equally do so, for there is no specific provision, just like in the case of Supreme Court, making the law declared by the High Court binding on subordinate courts. It is implicit in the power of supervision conferred on a superior Tribunal that all the Tribunals subject to its supervision should conform to the law laid down by it. Such obedience would also be conducive to their smooth working; otherwise there would be confusion in the administration of law and respect for law would irretrievably suffer."*

(ii) CIT V. Sunil Kumar (1995) 212 ITR 238 (Raj.), it was observed as under:

*"The point which has been raised could have been considered to be debatable because other High Courts have taken a different view. But since the view taken by this court is binding on the Tribunal and other authorities under the Act in this State, it could not be considered to be a debatable point in view of the decision of this court in the case of CIT v. M.L. Sanghi (1988) 170 ITR 670."*

(iii) Indian Tube Company Ltd. V. CIT & others (1993) 203 ITR 54 (Cal.) , it was observed as under:

*"In the impugned order, respondent No.1 has rejected the petitioner's contention by stating that, although the Calcutta High Court had held that an assessee was entitled to interest on such refund calculated up to the date of the order passed consequent upon an appeal or revision of the original assessment, this view had not been accepted by the Bombay High Court, the Allahabad High Court and the Kerala High Court.*

*Respondent No.1, accordingly, chose to accept the view of the Bombay, Allahabad and Kerala High Courts in preference to the view of the Calcutta High Court.*

*In my view, the order of respondent No.1 cannot be sustained on the simple ground that respondent No. 1 is an authority operating within the State of West Bengal and is bound by the decisions of the High Court of this State ( see CIT v. Indian Press Exchange Ltd. [1989] 176 ITR 331 (Cal) ; East India Commercial Co. Ltd. v. Collector of Customs AIR 1962 SC 1993, paragraph 29).*

*In that view of the matter, the impugned order must be set aside and the Commissioner is directed to consider the matter afresh in keeping with the decisions of this court after giving the petitioners an opportunity of being heard. At least 48 hours' clear notice must be given to the petitioners. The Commissioner will communicate the final order to the petitioner within eight weeks from the date of hearing."*

(iv) CIT Vs. J.K. Jain (1998) 230 ITR 839 (P&H), observing as under:

*"We have carefully examined the records and have heard learned counsel representing the parties. We are in respectful agreement with the view expressed by the Allahabad High Court in Omega Sports and Radio Works' case [1982] 134 ITR 28, as also the decision of this court in Mohan Lal Kansal's case [1978] 114 ITR 583. Following the decision in the two cases referred to above, we hold that it was not a case of divergence of opinion inasmuch as the opinion expressed by this court was binding upon the Tribunal."*

11.16. Therefore, in our considered opinion, no contrary view can be taken under these circumstances. We, accordingly, hold that only those investments are to be considered for computing average value of investment which yielded exempt income during the year.

11.17. As far as argument relating to meaning to be ascribed to the phrase 'shall not' used in Rule 8D(2)(iii) is concerned, the Revenue's contention is that it refers to those investments which did not yield any exempt income during the year but if income would have been yielded it would have remain exempt. There is no dispute that if an investment has yielded exempt income in a particular year then it will enter the computation of average value of investments for the purposes of Rule 8D(2)(iii). The assessee's contention that if there is no certainty that an income, which is exempt in current year, will continue to be so in future years and, therefore, that investment should also be excluded, is hypothetical and cannot be accepted.

11.18. In view of above discussion, the matter is restored back to the file of AO for recomputing the disallowance u/s 14A in terms of above observations. Thus, revenue's appeal is dismissed and assessee's cross-objection, on the issue in question, stand allowed for statistical purposes, in terms indicated above."

16. Therefore, respectfully following the above decisions of the Hon'ble Delhi High Court and the Special Bench of the Tribunal, we hold that the computation of disallowance under Rule 8D of the Rules should be confined to the investments which have actually yielded exempt income during the year under consideration. In the present case, it is the contention of the assessee that out of the total investments considered by the Ld. AO, investments amounting to Rs.306.55 crores have not yielded any exempt income during the year under consideration. Since this factual aspect requires verification at the end of the Ld. AO, in our considered opinion the matter requires fresh examination.

Accordingly, in the interest of justice, we set aside the order of the Ld. CIT(A) on this issue and restore the matter to the file of the Ld. AO with a direction to recompute the disallowance under section 14A read with Rule 8D by considering only those investments which have yielded exempt income during the year under consideration, in accordance with the law laid down in the aforesaid judicial precedents, after providing adequate opportunity of being heard to the assessee.

17. In the result, the appeal of the Revenue in ITA No.1781/Hyd/2025 for Assessment Year 2017-18 is partly allowed for statistical purposes.

**ITA NO. 1782/HYD/2025 FOR A.Y. 2018-19 :**

18. At the outset, the Ld. DR submitted that the solitary issue arising out of the grounds of appeal of the Revenue relates to the deletion of Rs.2,09,08,248/- by the Ld. CIT(A) on account of disallowance made by the Ld. AO towards reversal of interest under sections 234B and 234C of the Act. The Ld. DR submitted that from the computation of income filed by the assessee, it was noticed that the assessee had claimed deduction of Rs.2,09,08,248/- on account of reversal of interest relating to sections 234B and 234C of the Act. According to the Ld. DR, interest payable under sections 234B and 234C is directly linked with the income tax liability of the assessee and therefore such interest is in the nature of income tax. It was further submitted that as per the provisions of section 40(a)(ii) of the Act, any sum paid on account of tax levied on the profits and gains of business cannot be allowed as deduction while computing the income of the assessee. Therefore, according to the Ld. DR, the

Ld. CIT(A) erred in deleting the addition made by the Ld. AO. The Ld. DR therefore prayed that the order of the Ld. CIT(A) be set aside and that of the Ld. AO be restored.

19. Per contra, the Ld. AR submitted that the assessee had made provisions in its books of account towards interest payable under sections 234B and 234C of the Act relating to Assessment Years 2009–10, 2014–15, 2015–16 and 2016–17, amounting to Rs.3,59,40,202/-, by debiting the same to the Profit and Loss Account. However, while filing the returns of income for the respective assessment years, the assessee had already disallowed the said provision in the computation of income and therefore no deduction was claimed by the assessee in those years. The Ld. AR further submitted that subsequently the actual interest liability payable to the Revenue was determined at Rs.1,50,31,954/-. Consequently, the earlier provision created in the books stood reduced by Rs.2,09,08,248/-. The assessee accordingly credited the said amount of Rs.2,09,08,248/- in the Profit and Loss Account during the year under consideration. The Ld. AR submitted that since the entire provision had already been disallowed by the assessee in the earlier assessment years while computing its taxable income, the credit of Rs.2,09,08,248/- arising on account of reversal of excess provision was reduced in the computation of income for the year under consideration to avoid double taxation. Accordingly, the Ld. AR submitted that there was no claim of deduction by the assessee in respect of interest under sections 234B and 234C of the Act, and therefore the Ld. CIT(A) was justified in deleting the addition made by the Ld. AO.

20. We have heard the rival submissions and perused the material available on record. We find that the Ld. AO has made the addition on the premise that the assessee has claimed deduction of Rs.2,09,08,248/- towards reversal of interest relating to sections 234B and 234C of the Act, which according to the Ld. AO is not allowable in view of the provisions of section 40(a)(ii) of the Act. In this regard, we have gone through the submission made by the assessee, which is to the following effect :

**BEFORE THE HON'BLE INCOME – TAX APPELLATE TRIBUNAL,**  
**AT: HYDERABAD**  
**'A' BENCH, HYDERABAD**

ACIT, Circle 5(1), Hyderabad  
Ushodaya Enterprises (P) Ltd.

Vs.

..... Appellant  
..... Respondent

ITA. NO. 1782/HYD/2025  
A.Y. 2018-19

**WRITTEN SUBMISSIONS:**

- The issue under present appeal is deduction allowed by the Hon. CIT(A) of Rs.2,09,08,248/- representing reversal of interest charged under section 234B/234C, which was disallowed in the earlier years.
- An amount of Rs.2,09,08,248/- was credited to Profit and Loss Account in F.Y. 2017-18 towards the reversal of excess interest debited in earlier years, computed as under:

Sr	Interest relating to A.Y.	Interest Determined on	Interest debited to P&L A/c in A.Y.	Page of PB-2	Interest debited to P&L A/c in earlier A.Y.	Interest subsequently reduced to	Variance-Credited to P&L A/c
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8) = (6)-(7)
1	2009-10	29.11.2016	2017-18	91	1,82,40,587	0	1,82,40,587
2	2016-17	30.11.2016	2017-18	94	8,63,244	8,47,512	15,732
3	2015-16	30.11.2015	2016-17	93	27,15,577	26,69,512	46,065
4	2014-15	30.11.2014	2015-16	92	1,41,20,794	1,15,14,930	26,05,864
					3,59,40,202	1,50,31,954	2,09,08,248

- As can be seen from above table, the relevant years where the interest on income tax is debited to P&L Account is from A.Y. 2015-16 to A.Y. 2017-18 [col. (4)], where this interest expense is debited to P&L Account with other years summarized as under:

Sr	Particulars	A.Y. 2015-16 (Debited)	A.Y. 2016-17 (Debited)	A.Y. 2017-18 (Debited)	A.Y. 2018-19 (Credited)
1	Total Interest on Tax	3,39,81,253	27,15,577	3,43,82,260	-2,09,08,248
2	Which relates to A. Y.				
I	2014-15*	1,41,20,794	0	0	-26,05,864
II	2013-14	1,18,40,089	0	0	0
III	2012-13	80,20,370	0	-9,59,343	0
IV	2015-16*	0	27,15,577	0	-46,065
V	2016-17*	0	0	8,63,244	-15,732
VI	2009-10*	0	0	1,82,40,587	-1,82,40,587
VII	2011-12	0	0	1,50,37,772	0
VIII	Other expense	0	0	12,00,000	0
	TOTAL	3,39,81,253	27,15,577	3,43,82,260	-2,09,08,248

\* A.Y. for which excess interest has been reversed in A.Y. 2018-19

4. Relevant pages of the paper book for the above are as under:

Sr	Particulars	A.Y. 2015-16 (Debited)	A.Y. 2016-17 (Debited)	A.Y. 2017-18 (Debited)	A.Y. 2018-19 (Credited)
A	P&L Account	62	66	69	72
B	Computation of Income	38/PB-1	35/PB-1	32/PB-1	57
C	Finance Charges Ledger	74	75-76	77	NA
D	Excess Interest reversal	NA	NA	NA	78
E	Advance Tax Ledger	79-81	82-83	84-86	87-90
F	Balance Sheet	61	65	67	70

5. As can be seen from above, the interest expenditure was debited to the P&L Account under the head 'Finance Charges' and disallowed in the computation of income for respective years. The corresponding entry for amounts debited to Finance Charges is credited to Advance Income Tax Account, which is grouped under Other Current Assets, forming part of Balance Sheet. The amounts paid against the tax liability together with interest is debited to Advance Income Tax Account in respective years. Therefore, the reversal of excess interest debited, due to subsequent orders/ returns resulting in reduction of interest, was credited to the P&L Account in A.Y. 2018-19 as under:

Sr	Interest relating to A.Y.	Interest debited to P&L A/c in earlier A.Y.	Interest subsequently reduced to	Page Number of Paper book-1	Variance-Credited to P&L A/c
1	2009-10	1,82,40,587	0	40	1,82,40,587
2	2016-17	8,63,244	8,47,512	51	15,732
3	2015-16	27,15,577	26,69,512	50	46,065
4	2014-15	1,41,20,794	1,15,14,930	49	26,05,864
		3,59,40,202	1,50,31,954		2,09,08,248

6. Accordingly, the claim of interest on income tax towards reversal of excess provisions may kindly be allowed as deduction.

7. Prayer: Kindly confirm the order of the Hon. CIT(A) confirming allowance of Rs.2,09,08,248/-.

21. On careful perusal of the above, we find that the assessee had earlier created provisions in its books of account towards interest payable under sections 234B and 234C of the Act for various assessment years amounting to Rs.3,59,40,202/-, which were debited to the Profit and Loss Account. It is also not in dispute that while filing the returns of income for those respective years, the assessee had already disallowed the said amount in the computation of income and therefore no deduction was claimed by the assessee in those years. Subsequently, the actual interest liability payable to the Revenue was

determined at Rs.1,50,31,954/-, resulting in reduction of the earlier provision by Rs.2,09,08,248/-. Consequently, the assessee credited the said amount to the Profit and Loss Account during the year under consideration. We find that since the provision towards interest had already been disallowed by the assessee in the respective earlier assessment years, the credit arising on account of reversal of excess provision cannot be treated as income of the assessee for the year under consideration. The reduction made by the assessee in its computation of income is therefore only a consequential adjustment to avoid double taxation of the same amount. Therefore, in our considered view, the assessee has not claimed any deduction in respect of interest payable under sections 234B and 234C of the Act during the year under consideration. In this regard we have gone through the para no. 4.3 of the order of the Ld. CIT(A) , which is to the following effect :

**“4.3 Ground 3: Disallowance of Deduction for Reversal of Interest de trace of Deduction for Reversal of interest u/s 234B & 234C**

The appellant contends that interest charged under Sections 234B and 234C in original assessment orders was previously debited to the Profit & Loss Account and subsequently added back while computing taxable income in various assessment years. For instance, interest on short payment of advance income tax of Rs.3,30,81,253/- was added back in AY 2015-16, Rs. 27,15,577/- in AY 2016-17, and Rs. 1,82,40,587/- in AY 2017-18. This interest was later reduced due to appellate orders (e.g.. CIT(A) orders, revised returns) and was credited to the Profit & Loss Account under the head "Excess Provisions written back" in Assessment Year 2018-19. The appellant specifically detailed that Rs.2,09,08,248/-was the amount reduced from a total of Rs.3,59,40,202/- previously disallowed in various assessment years. The appellant claimed this amount of Rs.2,09,08,248/- as a deduction in AY 2018-19, asserting it represents a reversal of an earlier disallowance and not a double deduction.

The Assessing Officer disallowed this deduction, arguing that interest on income tax (under Sections 234B and 234C) forms part of "tax" as per Section 2(43) of the Act. Therefore, it cannot be allowed as a deduction under Section 40(a)(ii) of the Act, which prohibits the deduction of "any rate or tax levied on the profits or gains of any business or profession". The AO further contended that the appellant was attempting to claim a "double deduction" and that the matter had achieved finality in the respective financial years. Additionally, the

AO stated that the payment of interest on income tax is not for revenue generation and, therefore, cannot be allowed as a deduction under Section 37 of the Act.

Interest levied under Sections 234B and 234C is indeed imposed for default or deferment in the payment of advance tax and is generally considered penal or compensatory in nature. As such, the payment itself is typically not deductible as a business expense, and Section 40(a)(ii) bars the deduction of "any rate or tax levied" on profits. The AO's reliance on Section 2(43) to include interest within the definition of "tax" for the purpose of Section 40(a)(ii) is a generally accepted interpretation for the deductibility of the original payment.

However, the crux of the appellant's argument lies in the principle of reversal of a prior year's disallowance. The appellant is not claiming a deduction for interest paid in the current year. Instead, the claim pertains to an amount that was previously added back to its income in earlier years due to disallowance, and that addition has now been reversed or reduced as a result of appellate orders. When an expense is disallowed in a particular assessment year, it effectively increases the taxable income for that year. If that disallowance is subsequently reduced or overturned by an appellate authority, the tax effect of that reversal should logically be given. The amount credited to the Profit & Loss Account as "Excess Provisions written back" in the current year, in this specific context, represents the correction of an earlier income computation where an amount was treated as non-deductible.

The AO's assertion of "double deduction" is a mischaracterization of the situation. The interest was added back to income in previous years, meaning it never reduced the taxable income in the first place. Allowing a deduction now for its reversal is a corrective measure to ensure consistent tax treatment across years. This prevents the assessee from being effectively taxed on an amount that was initially disallowed (thereby increasing income) and then denied the benefit of its reversal (which should decrease income). It is a single adjustment to rectify the tax base, not a double benefit. Similarly, the AO's argument that the payment of interest on income tax is not for revenue generation and hence not deductible under Section 37 is correct for the original payment of interest. However, this argument is irrelevant to the reversal of a prior year's disallowance. The current claim is about correcting the tax base due to a change in a previous year's assessment, not about incurring a new business expense. This situation underscores the principle of consistency in income computation across assessment years. When an amount increases taxable income in one year due to a disallowance, its subsequent reversal due to appellate orders should decrease taxable income in the year the reversal takes effect. Failure to allow this adjustment would result in an unfair tax burden on the assessee.

### Decision on Ground 3

The disallowance of Rs.2,09,08,248/- claimed as deduction on account of interest written back to the profit and loss account is allowed in favour of the appellant. The Assessing Officer is directed to delete this addition, as it represents a legitimate adjustment to the current year's income arising from the reversal of amounts previously added back to income in earlier assessment years due to disallowance."

22. On perusal of above, we find that the Ld. CIT(A) has rightly appreciated the factual position and deleted the addition made by the Ld. AO. Therefore, we do not find any infirmity in the order of the Ld. CIT(A) in deleting the addition of Rs.2,09,08,248/- made by the Ld. AO. Accordingly, we uphold the order of the Ld. CIT(A) appeal.

23. In the result, the appeal of the Revenue in ITA No.1782/Hyd/2025 for AY 2018-19 is dismissed.

24. To sum up, the appeal of the Revenue in ITA No.1781/Hyd/2025 for AY 2017-18 is partly allowed for statistical purposes and in ITA No.1782/Hyd/2025 for AY 2018-19 is dismissed.

Order pronounced in the Open Court on 13<sup>th</sup> March, 2026.

<b>Sd/- (VIJAY PAL RAO) VICE PRESIDENT</b>	<b>Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER</b>
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Hyderabad, dated 13<sup>th</sup> March, 2026

Okk, Sr. PS

Copy to:

S.No	Addresses
1	Assistant Commissioner of Income Tax, Circle-5(1), R.No.224, 2B, IT Towers, Masab Tank, AC Guards, Hyderabad-500004, Telangana.
2	Ushodaya Enterprises Private Limited, 6-3-569/3, Eenadu Complex, Somajiguda, Hyderabad-500082, Telangana.
3	Pr. CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*