IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

Before: DR. BRR Kumar, Vice President
And Shri T. R. Senthil Kumar, Judicial Member

ITA Nos. : 1165 & 1166/Ahd/2025
and
ITA Nos. 1254 & 1249/Ahd/2025
Asst. Years: 2014-15 & 2015-16

Gujarat State Petroleum Corporation Limited GSPC Bhavan, B/H. Udyog Bhavan, Sector 11, Gandhinagar, Gujarat-382011 **PAN: AABCG4502F**	Vs	DCIT Gandhinagar Circle, Gandhinagar
DCIT Gandhinagar Circle, Gandhinagar	Vs	Gujarat State Petroleum Corporation Limited GSPC Bhavan, B/H. Udyog Bhavan, Sector 11, Gandhinagar, Gujarat-382011 **PAN: AABCG4502F**
(Appellant)		**(Respondent)**

Assessee Represented: Shri S. N. Soparkar, Sr. Advocate & Ms. Urvashi Shodhan, A.Rs.

Revenue Represented: Shri Rignesh Das, CIT.DR

Date of hearing : 10-03-2026
Date of pronouncement : 26-03-2026

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

These cross appeals are filed by the Assessee and Revenue as against separate appellate orders both dated 28-03-2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the

reassessment orders passed under section 147 read with section 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Years 2014-15 and 2015-16 respectively. Since common issue of challenging the reopening of assessment, disallowance made u/s 14A r.w.r. 8D and u/s. 115JB of the Act are involved in both the assessment years, for the sake of convenience the above appeals are disposed of by this common order.

2. The brief facts of the cases are that the assessee is a Government Company engaged in the business of exploration, exploitation and production of Mineral Oil, Trading of Natural Gas, Generation of Power, etc. The details of Returns of Income filed, assessment completed u/s. 143(3), appeals filed before CIT(A) and thereafter reopening of assessments are as follows:

A.Y. 2014-15

Date	**Particulars**	**Remarks**
29/11/2014	Original ROI filed	(-) 24,24,28,198/-
28/12/2017	Assessment Order u/s 143(3)	Disallowance of expenses u/s 14A of the Act of Rs. 3,57,11,383/-
28/01/2019	Appellate Order by Ld. CIT(A)	Appeal dismissed confirming the disallowance made u/s 14A
23/03/2022	Show Cause Notice issued during reassessment proceedings	to disallow u/s. 14A- Average value of investment @ 0.5% which is short deducted by Rs.10,02,013/-
27/03/2022	Notice u/s. 148 Issued	

A.Y. 2015-16

Date	Particulars	Remarks
30/11/2015	Original ROI filed	(-) 141,46,77,111/-
28/12/2017	Assessment Order u/s 143(3)	Disallowance of expenses u/s 14A of the Act of Rs. 5,77,40,540/-
29/01/2019	Appellate Order by Ld. CIT(A)	Appeal dismissed confirming the disallowance made u/s 14A
30/03/2021	Notice issued u/s 148 of the Act	to disallow u/s. 14A- Average value of investment @ 0.5% which is short deducted by Rs.25,40,345/-

3. Aggrieved against the reassessment orders, assessee filed appeals before Ld CIT[A], who has confirmed the reopening of assessment as correct in law and deleted few additions made by the Assessing Officer and thereby partly allowed the appeal in favour of the assessee and in favour of the Revenue.

4. Aggrieved against the appellate orders both are in appeal before this Tribunal. Grounds of Appeal in ITA No.1165/Ahd/2025 (Assessee's appeal for A.Y. 2014-15)

ITEM NO. I: Re-opening of assessment on account of change in opinion

1.1 The learned CIT(A) has grossly erred in law in confirming the action of the learned A.O. of reopening the case to increase disallowance u/s. 14A r.w.r. BD of the Act merely due to a change in opinion, despite the appellant having fully disclosed all material facts and information during the original assessment proceedings.

1.2 The learned CIT(A) failed to appreciate that the then learned A.O. had all necessary documents and details to make an informed decision while passing the assessment order u/s. 143(3) of the Act. There is no fresh information and it is merely a change in opinion by the learned A. O, which is not permissible u/s. 147 of the Act.

1.3 The learned CIT(A) has grossly erred in law in upholding the reopening of the assessment merely on the ground that the appellant did not maintain separate books of account for its investment activity.

1.4 The learned CIT(A) has failed to appreciate that the non-maintenance of separate books cannot be treated as fresh information for reopening the assessment. Moreover, it cannot be a basis to allege that the appellant had failed to disclose fully and truly all material facts during the original assessment proceedings.

1.5 The learned CIT(A) failed to consider that the then learned AO has already disallowed Rs. 3,57,11,381/- u/s 14A r.wr. BD of the Act while passing order u/s 143(3) of the act and the same issue is pending before Hon'ble ITAT and hence in view of the decisions in case of Metro Auto Corporation vs. ITO (2006) 286 ITR 618, Bombay HC and Chika Overseas (P) Ltd v ITO (2011) 131 ITD 471 (Mum) (Tribunal), re-opening cannot be made for issue which is subject matter of appeal

1.6 The appellant prays to your honour that the re-opening of the assessment made solely on a mere change of opinion, is void-ab-initio and deserves to be quashed, as such reopening is not permissible under the provisions of Section 147 of the Act.

ITEM NO.: II Disallowance u/s, 14A r.w.r. 8D of Rs. 10,02,013/- (Rs. 3,67,13,394/- as per Assessment order u/s. 147 r.w.s. 1448 of the Act Less: Rs. 3,57,11,381/-already disallowed as per Assessment order u/s. 143(3) of the Act).

2.1 The learned CIT(A) has grossly erred in law in confirming the action of the learned A.O. of disallowing Rs. 10,02,013/- towards interest expenses and increasing disallowance uls. 14A r.wr. 8D.

2.2 The learned CIT(A) failed to appreciate that no disallowance u/s 14A can be made since the investments were made for strategic purposes and out of own funds only, with no interest incurred for earning exempt income. The same issue is pending before the Hon'ble ITAT (ITA No. 560/AHD/2019).

2.3 The learned CIT(A) failed to appreciate the fact that the appellant has not borrowed any funds for making investments and interest on buyer's credit relates to trading activity and other finance costs (ie. Bank/LC/Guarantee charges) are unrelated to investments and therefore do not attract disallowance u/s 14A r.w.r. 8D

2.4 Further, the learned CIT(A) also failed to consider various decisions in the case of :

a. Hon'ble Bombay High Court in the case of Reliance Utilities & Power Ltd. (ITA No 1398 of 2008)

b. Hon'ble Gujarat High Court in the case of Gujarat Power Corporation Limited in Tax appeal No. 1587 of 2009 for A.Y. 2002-03

C. Hon'ble ITAT (Mumbai) in case of Shopper's Stop Ltd. vs. Asst. Commissioner of Income Tax dated 02-08-2011 in ITA No 1448 & 4475 of 2010

wherein it was held that if interest free funds are available then no disallowance u/s 14A is required.

2.5 The learned CIT(A) failed to appreciate that the then learned A.O. has rightly not considered the interest expenses while calculating the disallowance u/s. 14A r.w.r. 8D. while passing the assessment order u/s 143(3) of the Act.

2.6 The appellant prays to your honour that disallowance u/s 14A r.w.r. BD of Rs. 10,02,013/-(Rs 3,67,13,394/- as per Assessment order u/s 147 r.w.s. 1448 of the Act Less: Rs. 3,57,11,381/- already disallowed as per Assessment order u/s. 143(3) of the Act) may kindly be deleted.

3. The appellant reserves its right to add, amend, alter, substitute or modify all or any of the grounds stated hereinabove as the facts and circumstances of the case may justify."

4.1. Grounds of appeal in ITA No.1254/Ahd/2025 (Revenue's appeal for A.Y. 2014-15)

"(a) The Ld.CIT(A) has erred in law and on facts in deleting the addition u/s. 14A r.w.r. 8D of IT Act of Rs 3,67,13,394/- for computation of Book Profit u/s. 115JB of the IT Act without

appreciating that exempted income should be added to the book profit as per clause (1) to Explanation-1 of Sec. 115JB of the Act ?

(b) The appellant craves leave to add, alter and/or to amend all or any the ground before the final hearing of the appeal."

5. Grounds of appeal in ITA No.1166/Ahd/2025 (Assessee's appeal for A.Y. 2015-16)

ITEM NO. I: Re-opening of assessment on account of change in opinion

1.1 The learned CIT(A) has grossly erred in law in confirming the action of the learned AO of reopening the case to increase disallowance u/s 14A r.w.r. 8D of the Act merely due to a change in opinion, despite the appellant having fully disclosed all material facts and information during the original assessment proceedings

1.2 The learned CIT(A) failed to appreciate that the then learned A.O. had all necessary documents and details to make an informed decision while passing the assessment order u/s. 143(3) of the Act. There is no fresh information and it is merely a change in opinion by the learned A.O., which is not permissible u/s 147 of the Act.

1.3 The learned CIT(A) has grossly erred in law in upholding the reopening of the assessment merely on the ground that the appellant did not maintain separate books of account for its investment activity.

1.4 The learned CIT(A) has failed to appreciate that the non-maintenance of separate books cannot be treated as fresh information for reopening the assessment. Moreover, it cannot be a basis to allege that the appellant had failed to disclose fully and truly all material facts during the original assessment proceedings

1.5 The learned CIT(A) failed to consider that the then learned A.O. has already disallowed Rs. 5,77,40,540/- u/s 14A rwr 8D of the Act while passing order u/s 143(3) of the act and the same issue is pending before Hon'ble ITAT and hence in view of the decisions in case of Metro Auto Corporation vs. ITO (2006) 286 ITR 618, Bombay HC and Chika Overseas (P) Ltd v ITO (2011) 131 ITD 471 (Mum) (Tribunal), re-opening cannot be made for issue which is subject matter of appeal

1.6 The appellant prays to your honour that the re-opening of the assessment made solely on a mere change of opinion, is void-ab-

initio and deserves to be quashed, as such reopening is not permissible under the provisions of Section 147 of the Act

ITEM NO.: II Disallowance u/s. 14A r.w.r. 8D of Rs. 25,40,345/- (Rs. 6,02,80,885/- as per Assessment order u/s. 147 r.w.s. 144B of the Act Less: Rs. 5,77,40,540/- already disallowed as per Assessment order u/s. 143(3) of the Act).

2.1 The learned CIT(A) has grossly erred in law in confirming the action of the learned A.O of disallowing Rs. 25,40,345/- towards interest expenses and increasing disallowance u/s. 14A r.w.r. 8D.

2.2 The learned CIT(A) failed to appreciate that no disallowance u/s 14A can be made since the investments were made for strategic purposes and out of own funds only, with no interest incurred for earning exempt income. The same issue is pending before the Hon'ble ITAT (ITA No. 561/AHD/2019).

2.3 The learned CIT(A) failed to appreciate the fact that the appellant has not borrowed any funds for making investments and therefore do not attract disallowance u/s. 14A r.w.r. 8D.

2.4 Further, the learned CIT(A) also failed to consider various decisions in the case of

a. Hon'ble Bombay High Court in the case of Reliance Utilities & Power Ltd. (ITA No 1356 of 2008)
b. Hon'ble Gujarat High Court in the case of Gujarat Power Corporation Limited in Tax appeal No. 1587 of 2009 for A.Y. 2002-03
c. Hon'ble ITAT (Mumbai) in case of Shopper's Stop Ltd. vs. Asst. Commissioner of Income Tax dated 02-08-2011 in ITA No 1448 & 4475 of 2010

wherein it was held that if interest free funds are available then no disallowance u/s 14A is required.

2.5 The learned CIT(A) failed to appreciate that the then learned AO has rightly not considered the interest expenses while calculating the disallowance u/s 14A r.w.r. 8D. while passing the assessment order us 143(3) of the Act.

2.6 The appellant prays to your honour that disallowance u/s. 14A r.w.r. 8D of Rs. 25,40,345/-(Rs 6,02,80,885/- as per Assessment order u/s. 147 r.ws 1448 of the Act Less: Rs 5,77,40,540/- already disallowed as per Assessment order u/s. 143(3) of the Act) may kindly be deleted.

ITEM NO.: III Non-granting of addition in closing stock of Rs. 1,15,50,00,000/- for A.Y. 14-15 as opening stock of A.Y. 15-16

3.1 The learned CIT(A) has grossly erred in upholding the action of the learned A.O. in not allowing Rs. 1,15,90,00,000/-, being the closing stock addition for A.Y. 2014-15, as the opening stock for A.Y 2015-16, merely on the ground that the appellant had not claimed the same while filing the return u/s. 148 of the Act, relying on the decision in case of Goetze (India) Ltd vs CIT (2006) (204 CTR SC 182].

3.2 The learned CIT(A) failed to appreciate that the appellant was allowed to treat the closing stock addition of one year as the opening stock of the subsequent year as per the order of the then learned CIT(A) in earlier years.

3.3 The learned CIT(A) has failed to appreciate that the then learned A.O. while passing the order u/s 143(3) dated 28-12-17 for A.Y. 2015-16 has granted deduction of Rs. 1,15,90,00,000/-being the closing stock addition for A.Y. 2014-15, as the opening stock for A.Y. 2015-16

3.4 The learned CIT(A) also failed to appreciate that the appellant has preferred a further appeal before the Hon'ble ITAT, Ahmedabad, against the issues decided in favour of the Department and as the matter is sub-judice, the appellant has not claimed the same while filing the return u/s. 148 of the Act.

3.5 The appellant respectfully prays that the deduction of Rs. 1,15,90,00,000/- towards addition in closing stock of A.Y. 2014-15 as opening stock of A.Y. 2015-16, as already allowed by the then learned A.O, may be kindly granted from the assessed income

ITEM NO.: IV Non-granting of deduction as allowed by the then learned A.O. on account of Depreciation additionally allowed on account of disallowance of Section 42 of Rs. 1,31,02,916/-, erroneously treated as addition

4.1 The learned CIT(A) has grossly erred in law and on facts in confirming the action of the learned AO in incorrectly adding depreciation of Rs 1,31,02,916/- while computing the disallowance in accordance with the order u/s. 143(3) of the Act

4.2 The learned CIT(A) failed to appreciate that the then learned A. O has while passing the order u/s. 143(3) dated 28-12-17 for A.Y. 2015-16 has already allowed deduction of Rs.1,31,02,916/-

toward depreciation additional allowed on account of disallowance of claim u/s. 42.

4.3 The learned CIT(A) also failed to appreciate that the depreciation additionally allowed by the then learned A O is to be allowed as deduction and to be reduced from the assessed income but the learned A. O erroneously treated it as an addition and added to the total income of the appellant.

4.4 The appellant respectfully prays that the addition of Rs. 1,31,02,916/- made by the learned A.O. towards depreciation additionally allowed on account of disallowance of Section 42, as allowed by the then learned AO, erroneously treated as addition by the learned A O, be kindly deleted and the said amount be kindly granted as deduction from the assessed income.

5. The appellant reserves its right to add, amend, alter, substitute or modify all or any of the grounds stated hereinabove as the facts and circumstances of the case may justify."

5.1. Grounds of appeal in ITA No.1249/Ahd/2025 (Revenue's appeal for A.Y. 2015-16)

"(a) The Ld.CIT(A) has erred in law and on facts in deleting the addition/s. 14A r.w.r. 8D of IT Act of Rs. 5,53,68,585/- for computation of Book Profit u/s. 115JB of the IT Act without appreciating that exempted income should be added to the book profit as per clause (f) to Explanation-1 of Sec. 115JB of the Act?

(b) The appellant craves leave to add, alter and / or to amend all or any the ground before the final hearing of the appeal."

6. Ld. Senior Counsel Shri S.N. Soparkar appearing for the assessee submitted his arguments on three folds namely:

(i) On the principle of merger wherein the regular assessment already completed which was confirmed by Ld.CIT(A). Thereafter reopening on the same issue is bad in law and relied upon Jurisdictional High Court Judgment in the case of Gujarat Enviro Protection & Infrastructure Ltd. Vs. DCIT reported in (2018) 91 taxmann.com 436.

(ii) The Ld. A.O. failed to record his satisfaction that income escaped for assessment due to the failure on the part of the assessee to disclose fully and truly all material facts necessary for

regular assessment and relied upon Jurisdictional High Court Judgment in the case Kanak Fabrics Vs. ITO reported in (2014) 49 taxmann.com 108.

(iii) Ld. A.O. issued reopening notice on the issue already considered in the original assessment, thereby reopening of assessments amounts to change of opinion and relied upon Jurisdictional High Court Judgment in the case Gujarat Gas Ltd. Vs. DCIT reported in (2024) 168 taxmann.com 355 and Checkmate Services (P.) Ltd. Vs. ACIT reported in (2025) 176 taxmann.com 414 and PCIT vs. Gujarat Fluro Chemicals Ltd. reported in (2023) 155 taxmann.com 135.

Thus Ld. Senior Counsel pleaded that the entire reassessment itself are liable to be quashed.

7. Per contra, Ld. CIT-DR Shri Rignesh Das appearing for the Revenue supported the orders passed by the lower authorities but not placed any contra judgments on the validity of reopening of assessment.

8. Heard rival submissions and perused the materials available on record. It is undisputed fact that regular assessments were completed after making disallowance u/s. 14A of the Act by the assessing officer which were subject matter of appeal before Ld. CIT(A) who has also confirmed the disallowance made by the assessing officer. It is thereafter the assessing officer issued 148 notices on 27-03-2022 and 30-03-2021 for the Asst. Years 2014-15 and 2015-16 for short deduction of average value of investments at 0.5% u/s. 14A of the Act read with Rule 8D of Rs.10,02,013/- and Rs.25,40,345/-. Thus the assessing officer himself is clear that there is no failure on the part of the assessee in disclosing the disallowance made by the assessee u/s.14A of the Act. Further the assessments are reopened beyond four years period in both the asst. years, therefore the reopening of assessment itself is invalid in law, since there is no failure on the part

of the assessee in disclosing fully and truly all material facts necessary for assessment.

5.1. Jurisdictional High Court in the case of Gujarat Enviro Protection & Infrastructure Ltd. (cited supra) held as follows:

> "Section 80-IA, read with sections 148 and 251, of the Income-tax Act, 1961 - Deductions - Profits and gains from infrastructure industrial undertakings (Reassessment) - Assessment year 2012-13 - Assessee, engaged in business of solid waste management, claimed exemption under section 80-IA which was initially disallowed by Assessing Officer - But on appeal, Commissioner (Appeal) allowed assessee's claim of deduction in its entirety - Later on, assessment was sought to be reopened firstly, on ground that post monitoring expenses under heading "Long term provisions" was not actual expenses and merely a provisions and not an allowable expenditure under section 37(1); secondly, cell utilization expenses claimed as deduction was contingent expenditure which might be or might not be incurred in future; hence, cell utilization expenditure was not allowable under section 37(1); thirdly, amount debited on account of land utilization was a sort of depreciation on land which was not allowable - Whether on ground of merger, reopening notice must be quashed as initial assessment order of Assessing Officer merged with order of Commissioner (Appeals), and it thereafter be not open for Assessing Officer to reopen this very claim for possible disallowance of part thereof - Held, yes [Para 8] [In favour of assessee]"

5.2. Jurisdictional High Court in the case Kanak Fabrics (cited supra) held that when there is no failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment, then reopening of assessment is invalid in law by observing as follows:

> "… 7. Examining the facts of the present case in the light of the aforesaid legal position, a perusal of the reasons recorded shows that there is not even a whisper to the effect that income has escaped assessment on account of any failure on the part of the petitioner to disclose fully and truly all material facts necessary for its assessment. Even in the affidavit-in-reply filed by the respondent, there is no allegation of any such failure on the part of the petitioner. In the

circumstances, it is apparent that the requirements of the proviso to section 147 of the Act are not satisfied. Consequently, in the absence of any satisfaction having been recorded by the Assessing Officer that income has escaped assessment by reason of failure on the part of the petitioner to disclose fully and truly all material facts necessary for its assessment for the assessment year under consideration, the assumption of jurisdiction under section 147 of the Act, is invalid. The impugned notice under section 148 of the Act, therefore, cannot be sustained."

5.3. Jurisdictional High Court on identical set of facts by reopening the assessment to disallow u/s.14A of the Act, in the case Gujarat Gas Ltd. quashed the reassessment proceedings by observing as follows:

"… 7. Having heard the learned advocates for the respective parties and considering the facts of the case, it is not in dispute that the petitioner has issued the dis-allowance under Section 14A of the Act was considered during the course of the original assessment proceedings and after considering the submissions made by the petitioner, Assessing Officer made dis-allowance under Section 14A read with Rule 8D amounting to Rs.2,54,23,353/-. The petitioner challenged the assessment order before the CIT (Appeals), the CIT (Appeals) has passed the impugned assessment order holding that the Assessing Officer was justified in making the addition under Section 14A of the Act. Therefore, the issue of dis-allowance under Section 14A of the Act had already merged with the order passed by the CIT (Appeals). In such circumstances, the Assessing Officer could not have assumed the jurisdiction to issue the impugned notice under Section 148 of the Act on the same ground of dis-allowance under Section 14A read with Rule 8(d) of the Rules.

8. Therefore, the reasons recorded for reopening of the assessment for the year under consideration is nothing but a change of opinion in absence of any fresh material available on record, which is impermissible.

9. Moreover, the Assessing Officer has not be able to justify in the reasons recorded that the petitioner has failed to disclose fully and truly all material facts during the course of the original assessment year and admittedly the impugned notice is issued beyond the period of four years for the relevant assessment year. In such circumstances, as per proviso to Section 147 of the act, the respondent would not have any jurisdiction to issue notice for reopening."

5.4. Other Judgments relied by Ld. Senior Counsel is also in favour of the assessee that reopening of assessment is bad in law.

5.5. Respectfully following the above judicial precedents, we have no hesitation in quashing the reassessment order passed by the assessing officer. Therefore, the **Ground No. 1 raised by the assessee is hereby allowed in favour of the assessee**, consequently the remaining grounds on merits does not require any adjudication since the entire reassessment itself are quashed for both the Asst. years 2014-15 and 2015-16.

6. In the combined result, **the appeals filed by the Assessee in ITA 1165 & 1166/Ahd/2025 are allowed** and **the appeals filed by the Revenue in ITA 1254 & 1249/Ahd/2025 are hereby dismissed**.

Order pronounced in the open court on 26-03-2026

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

True Copy

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

Ahmedabad :
Dated 26/03/2026

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

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

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद