

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"E" BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No. 9467/MUM/2025**  
**(Assessment Year: 2018-19)**

**ITA No. 9469/MUM/2025**  
**(Assessment Year: 2020-21)**

**ITA No. 9468/MUM/2025**  
**(Assessment Year: 2019-20)**

**Deputy Commissioner of Income Tax -**  
**3(1)(1),**

Room No.607, 6<sup>th</sup> Floor, Aayakar Bhawan,  
Mumbai - 400020

..... Appellant

v/s

**Export Import Bank of India,**

Centre One Building, Floor 21,  
World Trade Centre Complex,  
Cuffe Parade,  
Mumbai - 400005  
PAN : AAACE2769D

..... Respondent

Assessee by : Ms. Aarti Vissanji

Revenue by : Shri Ritesh Misra, CIT-DR

Date of Hearing - 25/03/2026

Date of Order - 30/03/2026

**ORDER**

**PER BENCH:**

The Revenue has filed the present appeals against the separate impugned orders of even date 03.10.2025, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the assessment years 2018-19 to 2020-21.

2. Since all the appeals pertain to the same assessee and involve similar issues arising out of a similar factual matrix, these appeals were heard together as a matter of convenience and are being decided by way of this consolidated order. With the consent of the parties, the Revenue's appeal for the assessment year 2018-19 is considered as the lead case, and the decision rendered therein shall apply *mutatis mutandis* to the Revenue's appeals for the other years before us.

**ITA No.9467/Mum/2025**  
**Revenue's Appeal – A.Y. 2018-19**

3. In this appeal, the Revenue has raised the following grounds: -

*"1. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT was justified in allowing relief us. s.14A r.w. Rule 8D(2)(ii) and 8D(2)(iii), without appreciating the fact that the assessee had neither established that no part of interest-bearing fund as well as expenses so claimed has found its way into the investments in Mutual Funds/Shares nor adduced any documentary evidences during the course of assessment proceedings before the A.O.?"*

4. The solitary grievance of the Revenue is against the deletion of the disallowance made under section 14A read with Rule 8D of the Rules.

5. We have considered the submissions of both sides and perused the material available on record. The brief facts of the case are that from the revised computation of income filed by the assessee during the assessment year 2018-19, it was observed that the assessee claimed exemption of dividend income of Rs. 2,64,65,359/- under section 10(34) of the Act. It was further observed that the assessee quantified the disallowance under section 14A of the Act at Rs. 14,60,185/-. The AO, vide order dated 08.03.2021 passed under section 143(3) read with sections 143(3A) and 143(3B) of the

Act, disagreed with the quantification of disallowance made by the assessee and computed the disallowance at Rs. 4,47,00,695/- under section 14A read with Rule 8D(2) of the Rules as follows: -

		Amt. (Rs. )
<i>The disallowance u/s.14A/Rule 8D shall be aggregate of the following</i>		
1	<i>Amount of expenses directly relating to income which does not form part of total income</i>	<i>Nil</i>
2		
3	<b>1% of Annual average Investment of Monthly Average Investment which doesn't form a part of Total Income. 4,47,00,695/- ( 1% of 4,47,00,69,495/-)</b>	4,47,00,695
4	<b>Total disallowance u/s.14A</b>	<b>4,47,00,695</b>

6. After taking into consideration the *suo motu* disallowance of Rs. 14,60,185/- made by the assessee, the AO made an addition of Rs. 4,32,40,510/- under section 14A of the Act.

7. The learned CIT(A), vide impugned order, allowed the ground raised by the assessee on this issue on the basis that the source of investment generating exempt income was out of its own funds and not from interest-bearing borrowed funds, and therefore, no disallowance under section 14A read with Rule 8D of the Rules is warranted. The relevant findings of the learned CIT(A) on this issue are reproduced as follows: -

*"(i) Ground No.1:-*

*During the appellate proceedings, the submission made by the appellant is duly considered and decisions of CIT(A) & ITAT in earlier years are also perused. This is undisputed fact that during the year, the appellant has earned Rs.2,64,65,359/- as 'exempted dividend income'. The appellant suo-moto has disallowed expenditure u/s.14A of the Act of Rs.14,60,185/-. After carefully analysing the facts of the case, I am of the considered view that the issue relating to disallowance made u/s. 14A of the I.T. Act is squarely covered by the decision of Hon'ble ITAT Mumbai Bench "G" in the appellant's own case for A.Ys. 2012-13 to 2015-16 dated 14.02.2020, wherein it was held as under:-*

*"7. After hearing both the parties and perusing the material on record, we observe that in this case the interest free funds of the assessee were far*

*more than the investments in the equity shares. We find that the total own funds of the assessee as on 31.03.2010 were Rs.4531.55 crores whereas investment in the securities were only Rs. 169,39,49,514/-. The case of the assessee is squarely covered by the decisions of the Jurisdictional High Court in the following cases:*

*1. CIT vs. Reliance Utilities and Power Ltd. (2009) 313 ITR 340 (Bom)*

*2. CIT vs. HDFC Bank Ltd. (2014) 366 ITR 505 (Bom)*

*COM 3. HDFC Bank Ltd. vs. DCIT (2016) 383 ITR 529 (Bom)*

*8. We are, therefore, inclined to set aside the order of Ld. CIT(A) on this issue and delete the disallowance made by the AO under rule 8D(ii) of Rs.7,93,07,972/-."*

*Generally interest bearing borrowed funds had been invested in assets having potential of generating taxable income. Hence, no part of interest expenditure could be attributed to the said investment generating exempt income. In view of this, no interest expenditure need to be disallowed as per Rule 8D. I find significant force in this argument that source of investments generating exempt income was out of 'own funds' and not from 'borrowed funds', therefore, no disallowance u/s. 14A r.w. Rule 8D is warranted. Respectfully following the decision of jurisdictional High Court (supra), I order to delete the addition. This ground of appeal is allowed."*

Being aggrieved, the Revenue is in appeal before us.

8. Before proceeding further, it is relevant to note the provisions of Rule 8D(2) of the Rules, which are relevant for the year under consideration, and the same reads as follows: -

*"(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; 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 total income:*

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

9. From the perusal of the computation of disallowance of Rs. 4,47,00,695/- made by the AO under section 14A read with Rule 8D of the Rules, as noted in the foregoing paragraphs, it is evident that no expenditure was found to have been incurred which was directly relating to income which does not form part of the total income. Further, by considering 1% of the average annual investment of monthly averages, the AO computed a disallowance of Rs. 4,47,00,695/- under Rule 8D(2)(ii) of the Rules. Thus, from the said computation of disallowance made by the AO under section 14A read with Rule 8D of the Rules, it is evident that no disallowance was made in respect of interest expenditure incurred for earning exempt income. Accordingly, we are of the considered view that findings of the learned CIT(A) in deleting the disallowance made under section 14A read with Rule 8D of the Rules merely on the basis that the source of investment generating exempt income was out of own funds and therefore not from interest bearing borrowed funds, and thus no interest expenditure needs to be disallowed, are completely misplaced in the facts of the present case.

10. It is pertinent to note that for the assessment year under consideration, the provisions of Rule 8D(2) of the Rules, as amended by the IT (Fourteenth Amendment) Rules, 2016 with effect from 02.06.2016, have only two components of disallowance, i.e., direct expenditure relating to income which does not form part of the total income and amount equivalent to 1% of the annual average of the monthly averages of the opening and closing balances of the value of investments. Thus, in view of the facts and circumstances of the present case, as noted above, in the light of the amended provisions of

Rule 8D(2) of the Rules, we do not find any merit in the findings of the learned CIT(A) in deleting the disallowance made under section 14A of the Act.

11. Be that as it may, we find that the Special Bench of the Tribunal in ACIT vs. Vireet Investment Pvt. Ltd., reported in (2017) 165 ITD 27 (Del-Trib.), held that only those investments are to be considered for computing the average value of investments which yielded exempt income during the year. Therefore, respectfully following the aforesaid judicial precedent, we direct the AO to consider only those investments for the purpose of computation of disallowance under Rule 8D of the Rules which have yielded exempt income during the year. We find that similar findings were rendered by the Coordinate Bench of the Tribunal in the assessee's own case for the assessment year 2009-10, vide order dated 24.10.2018 passed in ITA No. 7796/Mum/2012. Accordingly, the sole ground raised by the Revenue in its appeal is allowed for statistical purposes.

12. In the result, the appeal by the Revenue for the assessment year 2018-19 is allowed for statistical purposes.

13. From the perusal of the record, in Revenue's appeal for the assessment years 2019-20 and 2020-21, we find that the learned CIT(A) deleted the disallowance made by the AO under section 14A read with Rule 8D of the Rules on the basis of similar findings as rendered in the assessment year 2018-19, i.e., the source of investment generating exempt income was out of its own funds and not borrowed funds. Accordingly, in its appeals for the assessment years 2019-20 and 2020-21, the Revenue is aggrieved against

the deletion of disallowance made under section 14A read with Rule 8D of the Rules. Since a similar issue has already been adjudicated by us in the Revenue's appeal for the assessment year 2018-19, our findings/conclusion rendered therein shall apply *mutatis mutandis* to the Revenue's appeals for the assessment years 2019-20 and 2020-21. Accordingly, with similar directions, the sole ground raised by the Revenue in its appeals for the assessment years 2019-20 and 2020-21 is allowed for statistical purposes.

14. In the result, the appeals by the Revenue for the assessment years 2019-20 and 2020-21 are allowed for statistical purposes.

15. To sum up, all the appeals by the Revenue are allowed for statistical purposes.

Order pronounced in the open Court on 30/03/2026

**Sd/-**  
**OM PRAKASH KANT**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 30/03/2026**

*Prabhat*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai