

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'A' BENCH AT KOLKATA**

**Before**

**SHRI GEORGE MATHAN, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s). 511/KOL/2025  
Assessment Year(s) 2017-18**

CHNHB Health Insurance Co. Ltd.	Vs.	ACIT, Circle-6(1), Kolkata
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN: AABCC2688Q</b>		

**Appearances:**

**Assessee represented by** : Sanjay Bhattacharya, FCA.  
**Department represented by** : Sallong Yaden, Addl. CIT, Sr DR.  
Date of concluding the hearing : 19-March-2026  
Date of pronouncing the order : 08-April-2026

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Addl/JCIT(A)-1, Gurugram [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 31.01.2025.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*“(1) That the Ld. Addl/Joint Commissioner of Income-tax (Appeals)-1, Gurugram was wrong in upholding the disallowance of Rs.87,41,989 made by the Assessing Officer u/s 14A read with Rule 8D in relation to expenses relatable to Exempt Income.*

*(2) That without prejudice to the contention raised in Ground No. (1) above, the Ld. Addl/Join Commissioner of Income-tax (Appeals)-1, Gurugram failed to appreciate that by upholding the disallowance of RS.87,41,989 it was confirmed by him that for earning of the taxable income of Rs.1,76,46,959 being 43.10 per cent of the total income earned from investments, the appellant had allegedly not incurred any expenditure.*



*(3) That the appellant craves leave to add, modify or withdraw any Ground or Grounds of Appeal before or at the time of Hearing of the Appeal before the Hon'ble Income-tax Appellate Tribunal.”*

3. Brief facts of the case are that the assessee is a private limited company and had filed its return of income for AY 2017-18 declaring total loss of ₹(-)1,03,10,740/-. The case was selected for limited scrutiny through Computer Assisted Scrutiny Selection (in short 'CASS') for the reason being computation/examination of expenses incurred for earning exempt income and notices u/s 143(2) and 142(1) of the Act were issued to the assessee. The Assessing Officer (hereinafter referred to as Ld. 'AO') made the addition by observing as under:

*“3. The issue on the basis of which the case was selected for limited scrutiny was computation/examination of expenses incurred for earning exempt income. It was noticed that the assessee had shown huge investments in equity shares in the balance sheet as at 31.03.2017. A sum of Rs.122,22,51,000/- is shown as investment in equity. And the assessee claimed to have earned dividend and interest on Tax Free Bonds amounting to Rs.2,33,02,492/, which, being claimed exempt, does not form part of total income for the relevant year. Since huge investments were shown and such investments yield dividend income to the assessee, following the CBDT Circular No.5/2014, the assessee was requested vide questionnaire/notice issued u/s 142(1) to furnish detailed computation of expenses incurred for earning exempt income, which is not includible in total income.*

*5. On perusal of the submission of the assessee, it is seen that the assessee has ascertained the expenses related to the earning of exempt income by allocating expenses related to non-insurance business on pro-rata basis, based on the ratio of income from tax free dividend and taxable interest. Since the assessee's method of computation of disallowable expenses is found to be not in accordance with section 14A read with Rule 8D, the same is considered to be not satisfactory and hence not acceptable.*

*6. The issue of applicability of section 14A of the Act has been examined by the CBDT at length and thereafter the Circular No-5/2014 was issued on 11.02.2014. On examination of the issue the CBDT has come to the conclusion that "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 deduction in respect of expenditure which is relatable to earning of income forming part of total 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.*

*7. The above position is further clarified by the usage of term 'includible' in the heading to section 14A of the Act and also in 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 impliedly 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. With this view of the matter, the contention of the assessee is held to be not acceptable and in this case, therefore, section 14A read with Rule 8D are attracted. The computation of disallowable expenses u/s 14A read with Rule 8D is made hereunder:*

*8D2(i): Expenses directly relating to exempt income: Rs. 49,74,192/-*

*8D(ii): The annual average of the monthly averages of investment*

*:Rs.115,53,26,850/-*

*1% of the annual average*

*: Rs.1,15,53,269/-*

*Thus, total disallowable expenses is worked out to Rs.1,65,27,461/-. However, since the aggregate of expenses other than those related to insurance business debited to the profit & loss account is Rs.87,41,989/-, and out of the same Rs.49,74,192/- has already been disallowed by the assessee, the disallowance u/s 14A read with Rule 8D is restricted to the balance amount of Rs. 37,67,797/- (87,41,989 - 49,74,192/-).*

3.1 The Ld. AO thus assessed the total income of the assessee at ₹65,42,943/- u/s 143(3) of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who vide order

dated 31.01.2025 dismissed the appeal of the assessee by giving his findings as under:

*“4.1 Ground of Appeal No. 1 to 4:- In all these grounds of appeal, the appellant has challenged the disallowance made u/s 14A r.w. Rule 8D. The submissions made by the appellant has been considered by me. Section 14A was inserted by Finance Act, 2001, w.r.e.f. 1-4-1962. Section 14A provides for disallowance of expenditure which is related to income not forming part of total income. Investment made by an assessee may result in both type of income exempt, as well as taxable. The expenditure incurred for earning such income may be either separately accounted for or may be mixed. The expression "in relation to" does not mean that there should be direct and proximate connection. It cannot be ascribed as narrow or constricted meaning. It simply means in connection with or pertaining to. What is to be disallowed u/s 14A is an expenditure which is actually incurred and is related to income which does not form part of total income. When expenditure relating to income which does not form part of total income and expenditure which form part of the total income are mixed, theory of apportionment will be applicable.*

*4.1.1 By Finance Act 2006 w.e.f. 01-04-2007 sub-section (2) and (3) were inserted to provide that amount to be disallowed u/s 14A will be calculated in accordance with the method prescribed. The method for computation of disallowable expenditure under this section is prescribed in Rule 8D.*

*4.1.2 Rule 8D provided that where the AO having regard to the accounts of the assessee of a previous year is not satisfied with the correctness of the claim of the expenditure made by the assessee or with his claim that no expenditure has been incurred by him in relation to such income not forming part of the total income, the disallowable expenditure shall be computed in accordance with sub-Rule (2). The constitutional validity of both sub section 2 and 3 as well as Rule 8D has been upheld by the court in Godrej & Boyce Mfg Co. Ltd v DCIT 328 ITR 81 where it was held that Disallowance under section 14A has to be made in accordance with the principle laid down by the Hon'ble Bombay High Court in the present case. The Mumbai Tribunal in Daga Capital Management Pvt. Ltd. 26 SOT 603 held that all disallowances u/s 14A ought to be strictly computed as per Rule 8D.*

*4.1.3 It is seen from the assessment order that the AO proceeded to compute disallowable expenditure in accordance with the method prescribed only after recording his dissatisfaction that he is not satisfied with the claim of the assessee made in respect of disallowable expenditure in relation to income not forming part of the total income as required by the provisions of section 14A(2). It is also seen that the AO restricted the disallowable*



*expenditure to the total expenditure claimed in respect of such investments. In view of the facts of the case and various judicial pronouncement on the issue, the disallowance made by the assessing officer is upheld. All the four grounds of appeal are hereby dismissed.*

*4.2 Ground of Appeal No. 5 is general in nature and needs no adjudication.*

*5. The appeal filed by the appellant is hereby dismissed.”*

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. It was submitted by the Ld. AR that the assessee had made the disallowance on proportionate basis and as per page 3 of the paper book filed, as the tax free dividend and interest was ₹2,33,02,492/- being 56.90% of the total dividend and interest of ₹4,09,49,451/-, therefore, on proportionate basis 56.90% of the expenses other than those related to insurance business which were ₹87,41,989/- (as per the Audited Accounts) and 56.90% of which worked out to ₹49,74,192/-, were disallowed *suo moto* by the assessee. The Ld. AO disallowed a sum of ₹1,15,53,269/- being 1% of the annual average or the monthly averages of the investment shown at ₹115,53,26,850/-. Our attention was also drawn to page 4 of the paper book in which the monthly averages of investment have been worked out by considering the entire equity shares while the assessee also had tax free bonds which are shown at ₹2,18,77,000/-. The Bench was of the view that the provisions of Rule 8D of the Income Tax Rules, 1962 were rightly applied, however, the computation done by the Ld. AO is not correct as he had invoked the provisions of rule 8D of the IT Rules, 1962 but had included the entire investment. It has been held by the Hon'ble Calcutta High Court in the case of **Principal Commissioner of**

**Income-tax vs. REI Agro Ltd. [2022] 140 taxmann.com 71**  
**(Calcutta)[07-03-2022] as under:**

“2. The revenue has raised the following substantial question of law for consideration:

(i) Whether on the facts and in the circumstances of the case the Learned Income-tax Appellate Tribunal, "C" Bench, Kolkata has erred in law in deleting the addition made by the Assessing Officer under section 36(1)(va) read with section 2(24)(x) of the Income-tax Act, 1961 on account of delayed deposit of employees' contribution towards PF/ESI without considering CBDT's Circular No. 22 of 2015 dated December 17, 2015 ?

(ii) Whether on the facts and in the circumstances of the case the Learned Income-tax Appellate Tribunal, "C" Bench, Kolkata has erred in law in holding that the disallowances under section 14A of the Income-tax Act, 1961 read with rule 8D of the Income-tax Rules, 1962 is to be in relating to the income which does not form a part of the total income and this can be done only by taking into consideration the investment which has given rise to this income which does not form part of the total income while as per rule 8D, those investments are also to be taken income from which shall not form part of the total income ?

3. We have heard Mr. Debasish Chaudhuri, learned standing counsel appearing for the appellant/revenue.

4. The second substantial question of law framed for consideration is with regard to disallowance under section 14A of the Act read with rule 8D of the Income-tax Rules, 1962. We have perused the order passed by the tribunal which affirmed the order passed by the Commissioner of Income-tax (Appeals) Central-II, Kolkata [CIT(A)]. Identical issue arose in the assessee's own case for the assessment year 2008-09 which was decided in favour of the assessee by the CIT(A) and confirmed by the tribunal. The revenue preferred appeal before this Court and the appeal has been dismissed by judgment dated 9th April, 2014.

Thus, applying the decision of this Court, the said issue was decided against the revenue and in favour of the assessee, we find no ground to take a different view in the matter as the said issue has already been decided in favour of the assessee in the assessee's own case for earlier assessment years. Accordingly, substantial question of law no. 2 is rejected.”



6. Thus, the disallowances under section 14A of the Income-tax Act, 1961 read with rule 8D of the Income-tax Rules, 1962 is to be in relating to the income which does not form a part of the total income and this can be done only by taking into consideration the investment which has given rise to this income which does not form part of the total income. Hence, the order of the Ld. CIT(A) is hereby set aside and the issue is remanded to the Ld. AO to apply the provisions of Rule 8D of the IT Rules and recompute the disallowance in view of the findings of the Hon'ble Calcutta High Court in the case of **REI Agro Ltd.** (supra). The assessee is directed to bifurcate the dividend and the interest received and also the details of investments which yielded exempt income and which did not yield such exempt income and submit the same before the Ld. AO who shall thereafter recompute the disallowance as per Rule 8D of the IT Rules. Hence, all the grounds of appeal raised by the assessee are partly allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

**Order pronounced in the open Court on 8<sup>th</sup> April, 2026.**

*Sd/-*

**[George Mathan]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 08.04.2026

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **CHNHB Health Insurance Co. Ltd., Bishops House, 51, Chowringhee Road, Kolkata, West Bengal, 700071.**
2. **ACIT, Circle-6(1), Kolkata.**
3. Addl/JCIT(A)-1, Gurugram.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata