

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri Shamim Yahya (AM) & Shri Ramlal Negi (JM)

I.T.A. No. 515/Mum/2020 (Assessment Year 2013-14)

Mehta Financial Services Limited 903, Lodha Supremus Dr. E. Moses Road Worli Naka Mumbai-400 018. PAN : AAACR4142D (Appellant)	Vs.	DCIT-4(2)(2) Aayakar Bhavan M.K. Road Churchgate Mumbai-400 020. (Respondent)
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Assessee by	Shri Rajiv Khandelwal
Department by	Shri Jeetendra Kumar
Date of Hearing	20.10.2020
Date of Pronouncement	01.01.2021

ORDER

Per Shamim Yahya (AM) :-

This appeal by the assessee is directed against order of learned Commissioner of Income Tax (Appeals) [in short learned CIT(A)] dated 8.11.2019 and pertains to assessment year 2013-14.

2. The grounds of appeal read as under :-

1. The Commissioner of Income-tax (Appeals)-9, Mumbai (hereinafter referred to as the CIT(A)) erred in upholding the action of the Deputy Commissioner of Income-tax-4(2)(2), Mumbai (hereinafter referred to as the Assessing Officer) in making a disallowance of a sum of Rs 8,55,173 by invoking the provisions of section 14A read with Rule 8D.
2. The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have upheld the action of the Assessing Officer inasmuch as he has not correctly appreciated the facts in its entirety and the disallowance is not in accordance with the prescription of section 14A read with Rule 8D(2)(ii); hence, the impugned disallowance needs to be deleted.

3. Brief facts on the issue are as under :-

The assessee had earned dividend income of Rs.9,88,451/- on investment in equity shares of Rs.9,24,33,284/- and the same was claimed as exempt u/s. 10(34) of the Act. The assessee had voluntarily disallowed an amount of Rs. 1,33,278/- u/s. 14A of the Act. Before the Assessing Officer, the assessee contended that no expenses were directly incurred for the purpose of earning of exempt income and hence no further disallowance u/s, 14A of the Act was warranted in it's case. The submission made by the assessee was considered by the AO but the same was not found acceptable. As per the Assessing Officer, the assessee had failed to furnish any evidence to prove that no expenditure was incurred or attributable for earning of exempt income. Therefore, the AO was of the opinion that the disallowance u/s 14A of the Act has to be done as per the provisions of Rule 8D. The AO invoked the provisions of Rule 8D and accordingly disallowed an amount of Rs.15,57,192/- under Rule 8D2(ii) in respect of interest expenditure and Rs.4,12,663/- under Rule 8D2(iii). The total disallowance u/s. 14A of the Act worked out to Rs.19,69,855/-. After reducing the suo-moto disallowance of Rs.1,57,034/- as worked out by the assessee, the balance of Rs. 18,12,821/- was added to the total income of the assessee.

4. Upon assessee's appeal learned CIT(A) rejected the contentions of the assessee for the issue of disallowance under section 14A of the Act however he directed that the disallowance should be restricted to the exempt income earned. The assessee is aggrieved before us by the aforesaid order. Learned counsel of the assessee submitted that assessee is aggrieved for the reason that the learned CIT(A) had not considered that the assessee has adequate interest free funds. Hence disallowance on account of interest under rule 8D(ii) of the I.T. Rules is not sustainable on the touchstone of honourable jurisdictional High Court decision in the case of HDFC Bank Ltd. (366 1TR 505). We find that learned CIT(A) had adjudicated this issue by observing as under :-

“The appellant has argued that the disallowance under Rule 8D2(ii) amounting to Rs.15,57,152/- was not applicable in its case as its own funds and non-interest bearing funds exceeded their investment made in tax free securities.

As regards disallowance u/s 14A out of interest expenditure incurred by the assessee, I find that the appellant had net worth of 8,12 crores in the form of share capital and reserves and the investment in tax free securities amounted to Rs,9,23 crores. Hence it is seen that the investment in shares/securities is much higher than the net worth of the appellant. Thus the ratio of the judgement of the jurisdictional High Court in the case of HDFC Bank Ltd. (366 1TR 505) is not applicable in the appellant's case.”

5. From the above observations of learned CIT(A) itself is amply evident that assessee deserves relief on account of interest free funds available. Hence for factual verification of interest free funds available this issue is remitted to the file of assessing officer. The assessing officer is directed to examine the interest free funds available and grant relief on this account under rule 8D(iii) as per the mandate of honourable Bombay High Court decision in the case of HDFC Bank Ltd. (supra).

6. Learned counsel of the assessee to be agreed to the above proposition.

7. In the result this appeal by the assessee stands allowed for statistical purposes.

Order pronounced under Rule 34(4) of the ITAT Rules by placing the result on notice board on 1.1.2021.

Sd/-
(RAMLAL NEGI)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 01/01/2021

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai

6. Guard File.

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai