आयकर अपीलीय अधिकरण "A" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI
BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER
AND SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.1807/Mum/2011 & 1812/Mum/2011

(**निर्धारण वर्ष /** Assessment Year : 2006-07 & 2007-08)

ACIT Circle 6(1),Room No. 506, 5th Floor, Aayakar Bhawan M K Road Mumbai 400020	**बनाम**/ v.	Af-taab Investment Company Limited, Corporate Centre, 'B' Block, 34 Carnac Bunder, Mumbai 400009
	स्थायी लेखा सं./PAN : AAACA4800H	

आयकर अपील सं./I.T.A. No. 4284/Mum/2014

(**निर्धारण वर्ष /** Assessment Year : 2006-07)

Af-Taab Investment Company Limited Corporate Centre, B Block, 34 Carnac Bunder, Mumbai 400009	**बनाम**/ v.	ACIT(OSD)2(1), Aayakar Bhavan, Mumbai 400002
स्थायी लेखा सं./PAN : AAACA4800H		

आयकर अपील सं./I.T.A. No. 7069/Mum/2013 & 6546/Mum/2014

(**निर्धारण वर्ष /** Assessment Year : 2009-10 & 2010-11)

Af-Taab Investment Company Ltd, Corporate Centre, B Block, 34 Carnac Bunder, Mumbai 400009	**बनाम**/ v.	ACIT CIR 6(1) Aayakar Bhavan Mumbai-400020
स्थायी लेखा सं./PAN : AAACA4800H		
(अपीलार्थी **/Appellant**)	..	(प्रत्यर्थी / **Respondent**)

आयकर अपील सं./I.T.A. No. 6573/Mum/2014

(**निर्धारण वर्ष /** Assessment Year : 2010-11)

DCIT CIR 6(1) 12/8 Harharwala Bldg, 341 N.M Joshi Marg, Mumbai 400013	**बनाम**/ v.	Af-Taab Investment Co. Ltd, Corporate Centre, B Block, 34 Carnac Bunder, Mumbai 400009
	स्थायी लेखा सं./PAN : AAACA4800H	

आयकर अपील सं./I.T.A. No. 7128/Mum/2014

(**निर्धारण वर्ष /** Assessment Year : 2011-12)

Af-Taab Investment Co. Ltd, Corporate Centre, B Block, 34 Carnac Bunder, Mumbai 400009	**बनाम**/ v.	DCIT CIR 6(1) 5th Floor, Aayakar Bhavan Mumbai
स्थायी लेखा सं./PAN : AAACA4800H		
(अपीलार्थी **/Appellant**)	..	(प्रत्यर्थी / **Respondent**)

Revenue by :	Shri. Saurabh Kumar Rai
Assessee by:	Shri P.J.Pardiwala & Harsh Kothari

सुनवाई की तारीख **/Date of Hearing : 16-10-2017**

घोषणा की तारीख **/Date of Pronouncement : 16.11.2017**

आदेश / O R D E R

PER Bench

These are bunch of seven appeals filed by the assessee as well as the Revenue for assessment year 2006-07, 2007-08, 2009-10, 2010-11 and 2011-12 . First we shall take up cross appeals field by the assessee as well as the Revenue in ITA 4284/Mum/2014 and 1807/Mum/2011 for assessment year (AY) 2006-07 respectively.

2. The grounds of appeal raised by the Revenue in ITA no. 1807/Mum/2011 in the memo of appeal filed with the Income-Tax Appellate Tribunal, Mumbai (hereinafter called "the tribunal") read as under:-

1. "On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in directing the Assessing Officer to re-compute the disallowance u/s 14A on a reasonable basis relying on the judgement of Bombay High Court in the case of Godrej & Boyce Mfg. Ltd. without appreciating the fact that the judgment of Bombay High Court has not been accepted by the Revenue and SLP has been proposed."
2. "The appellant prays that the order of CIT(A) on the above grounds be set aside and that of the Assessing Officer be restored".
3. "The appellant craves leave to amend or alter any ground or add a new ground which may be necessary."

3. The grounds of appeal raised by the assessee in ITA no. 4284/Mum/2014 in the memo of appeal filed with the Income-Tax Appellate Tribunal, Mumbai (hereinafter called "the tribunal") read as under:-

"*The appellant objects to the order dated 10 December 2010 passed by the Commissioner of Income-tax (Appeals)-14, Mumbai ["CIT(A)"] for the aforesaid assessment year on the following among other grounds:*
1. The learned CIT(A) erred in not deleting the entire disallowance made by the Assessing Officer under section 14A of Rs. 4,10,78,401/-.
2. The learned CIT(A) erred in directing the Assessing Officer to determine the reasonable amount of disallowance under section 14A. The learned CIT(A) ought to have held that in the present case no disallowance under section 14A could be made for the year. .
3. The learned CIT(A) erred in not appreciating that the provisions of section 14A are not applicable in appellants case as no expenses are specifically incurred during the year for earning tax free income.
4. The learned CIT(A) erred in not appreciating that the appellant is an investment company and investment in shares of other companies are purely held for business purposes, which is one of its principal objective of business, and accordingly, interest expenditure on borrowings for investment purposes is allowable as deduction under section 36(1)(iii).
5. The learned CIT(A) erred in confirming the action of the Assessing Officer in increasing the book profits under section 115JB by the amount of additional disallowance made under section 14A.
6. Each one of the above grounds of appeal is without prejudice to the other.
7. The appellant reserves the right to amend, alter or add to the grounds of appeal."

4. The brief facts of the case are that the assessee is an investor and dealer in share & securities. The assessee earned its income from short term and long term investments in share, mutual fund, equities and investment in real estate. The Assessee is 100% subsidiary of the Tata Power Company Ltd. During the course of assessment proceedings u/s 143(3) r.w.s. 143(2), the AO observed from the perusal of Profit and Loss Account that the assessee earned total dividend of Rs. 4,04,09,057/- which the assessee claimed to be an exempt income u/s. 10(34) . The assessee disallowed expenditure of Rs. 3,64,34,450/- incurred for earning the exempt income u/s. 14A . The assessee took into account proportionate expenditure on interest on ICD but excluded administrative expenses. The AO rejected the contention of the assessee and work out the disallowance in accordance with the Board notification 45/2008 dated 24.03.2008 . The AO also relied upon the decision of Special Bench of tribunal in ITA no 8057/Mum/2003 in the case of ITO v. Daga Capital Management P. Ltd wherein the Special Bench held that Rule 8D of Income-tax Rules, 1962(hereinafter called 'the rules') shall have retrospective effect as the same is clarificatory in nature. The assessee considered interest on ICD while the AO also included administrative expenses for computing disallowance u/s 14A read with Rule 8D. Thus , the disallowance u/s. 14A of the Act was worked out by the AO at Rs.4,10,78,401/- instead of Rs. 3,64,34,450/- , vide assessment order dated 28-11-2008 passed by the AO u/s 143(3).

5. Aggrieved by the assessment order dated 28-11-2008 passed by the AO u/s 143(3), the assessee filed an appeal before the learned CIT(A) , who held vide appellate order dated 10-12-2010 , as under:-

> *" 7. I have gone through the above submissions very carefully and facts of the case. The appellant company submitted that the provisions of Sec. 14A is not applicable in its case as no expenditure was incurred by them during the year for earning tax free income. It has also been argued that the provisions of Rule 8D is to be applied on the AY. 2008-09 in view of the recent decision of Hon'ble Bombay High Court.*
>
> *The Hon'ble Bombay High Court in the case of Godrej & Boyce Mtg. Co. Ltd. vs. DCIT. Rg. 10(2). Mumbai and Anr. has held that even prior to A.Y. 2008-09, the Rule 8D was not applicable, the Assessing Officer has to enforce the provisions of sub-section (1) of Sec. 14A. For that purpose, the Assessing Officer is duty bound to determine the*

expenditure which has been incurred in relation to income which does not form part of the total income under the Act. The Assessing Officer must adopt a reasonable basis on method consistent with all the relevant facts and circumstances after furnishing a. reasonable opportunity to the assessee to place all the germane material on the record.

Following the above decision, the Assessing' Officer is directed to determine the reasonable amount of disallowance u/s. 14A. This ground of appeal is disposed off accordingly."

Similarly with respect to the disallowance u/s. 14A for the purpose of computation of book profit u/s. 155JB , the assessee submitted as follows:-

"*The learned ACIT erred in computing disallowance of Rs. 4,10.78.401 under section 14A on account of interest expenses having been incurred in earning tax free income i.e. dividend.*

He erred in not appreciating that only actual expenditure that is directly relatable to earning income which does not form part of total income can be considered for disallowance and not notional expenditure that is attributed to earning such income.

The appellant submits that the increase in book profits on the ground of recalculation of disallowance under section 14A attributable to interest expense is unwarranted. The appellant relies on the submissions at paras 2.1 to 2.43 above."

The learned CIT-A rejected contentions of the assessee by holding as under, vide appellate order dated 10-12-2010 passed by learned CIT(A):

"9. I have gone through the order of the Assessing Officer and perused the order. The Assessing Officer has rightly included the amount of disallowance made u/s.14A for the purpose of computation of book profit u/s. 115JB. Accordingly ground of appeal is dismissed."

6. Aggrieved by appellate order dated 10-12-2010 passed by learned CIT(A), both the assessee and Revenue have come in appeal before the tribunal. .

The Ld. Counsel of the assessee submitted that the tribunal has passed the order in assessee's own case in ITA no. 3684/Mum/2012 and 8981/Mum/2010 for AY 2004-05 and 2005-06 , vide common orders dated

11th May, 2016. It was submitted that the tribunal vide its aforesaid orders dated 11-05-2016 had given relief to the assessee, by holding as under:

> " *2. The assessee company is engaged in the business of investing and dealing in shares and securities. The company derives its income from short term and long term investments in shares, mutual fund, equities and investment in real estate. The assessee company is a 100% subsidiary of the Tata Power Company Ltd. The assessee company invested in the subsidiary company and earned exempt income but the contention of the assessee is that the expenditure incurred upon the strategic investment is not liable to be added in the income of the assessee. But the Assessing Officer assessed the same as income of assessee and the learned CIT(A) confirmed the order of Assessing Officer therefore the assessee filed an appeal for the above mentioned assessment year before us.*
>
> *3. However, the assessee has raised number of issues but the learned representative of the assessee only raised the issue u/s.14A of the Income Tax Act, 1961(in short "the Act") wherein the learned CIT(A) confirmed the disallowance the interest expenditure to the tune of Rs.8,42,08,035/- for A.Y.2004-05 and Rs.9,70,012/- for A.Y.2005-06. The learned representative of the assessee has argued that the assessee expended the money for strategic investment with the object to control the stake in group concern and not to earn the income, therefore, in the said circumstances no disallowance of any kind is required in connection with the expenditure incurred if any for the said investment in view of the law settled in [2014] 46 taxmann.com 18, Income Tax Appellate Tribunal, Mumbai bench in case of Garware Wall Ropes Ltd. Vs. Additional Commissioner of Income Tax Range 5(1), [2009] 183 taxman 159 (Bom) in case of Commissioner of Income Tax - 8 Vs. Srishti Securities Pvt. Ltd. and [2013] 35 taxmann.com 210 (Delhi) High court of Bombay in case Commissioner of Income Tax Vs. Oriental Structural Engineers Pvt. Ltd.. However, on the other hand learned departmental representative has refuted the said contention. In the instant case investment made in subsidiary company for strategic investment i.e. for commercial expediency or investment or stock in trade is in question. Assessing Officer disallowed the interest expenditure to the tune of Rs.84,20,803/- for A.Y. of 2004-05 and an amount of Rs.7,70,012/- for the A.Y.2005-06. But in connection with the strategic investment in the subsidiary company the law is not quite clear that if any company made an investment in subsidiary company for commercial expediency or investment or stock in trade for any purpose of controlling interest in other companies then interest paid to such parties would not be taxable u/s.36(1)(iii) of the Act. In view of the above mentioned law appeal of the appellant are hereby allowed and Assessing Officer is hereby directed to re-calculate the expenditure incurred towards the dividend income by excluding the investment made for controlling interest in the other companies while computing average value of investment. The law settled in [2014] 46 taxmann.com 18, Income Tax Appellate Tribunal, Mumbai bench in case of Garware Wall Ropes Ltd. Vs. Additional Commissioner of Income Tax Range 5(1),*

[2009] 183 taxman 159 (Bom) in case of Commissioner of Income Tax - 8 Vs. Srishti Securities Pvt. Ltd. and [2013] 35 taxmann.com 210 (Delhi) High court of Bombay in case Commissioner of Income Tax Vs. Oriental Structural Engineers Pvt. Ltd. in accordance with law.

4. In result the both the appeal of the assessee are hereby allowed for statistical purpose."

It was submitted by learned counsel for the assessee that the department has already passed order giving effect to the aforestated tribunal orders dated 11-05-2016 and the addition made u/s 14A stood deleted , which order dated 05-06-2017 passed by the AO is placed in file , wherein it is held by the AO as under:-

"

Name of Assessee	*Af-Taab Investment Co. Ltd,*
Address	*24, Homi Modi Street, Bombay House, Mumbai-400001*
PAN	*AAACA4800H*
Status	*Company*
Assessment Year	*2005-06*
Date of the order	*05.06.2017*

Order Giving Effect to ITAT's order

In view of the Hon'ble ITAT's order ITA no. 3684/Mum/2012 and ITA no. 8981/Mum/2010 dated 11.05.2017.

The total assessed income is recomputed as under:

Particulars	*Rs.*
Total income as per order giving effect dated 05.06.2017	*(2,28,25,500)*
Less: Relief granted by ITAT vide order dated 11th May 2016 (3,92,31,324+9,70,012) Disallowance u/s 14A	*(4,02,01,336)*
Total income/Loss	*(6,30,26,836/-)*

Total income as per the provisions of section 115JB is computed as under:

Particulars	*Rs.*
Book profits assessed under section 115JB- as per order giving effect dated 05.06.2017	*20,76,01,107*
Less: Relief granted by ITAT vide order dated 11 May 2016 (3,92,31,324 +9,70,012) Disallowance u/s. 14A	*(4,02,01,336)*
Taxable book profit	*16,73,99,771*

Reliance were also placed on the decision of Hon'ble Bombay High court in the case of Principle CIT v. Reliance Capital Asset Management Ltd. in ITA no. 487/2015 dated 19th September 2017 . The Ld. DR on the other hand relied upon the assessment order of the AO.

7. We have considered rival contentions and have perused the material on record . We have observed that the assessee is an investor and dealer in shares & securities. The assessee earned its income from short term and long term investments in share, mutual fund, equities and investment in real estate. The assessee is 100% subsidiary of the Tata Power Company Ltd. The AO observed from the perusal of Profit and Loss Account that the assessee earned total dividend of Rs. 4,04,09,057/- which the assessee claimed to be an exempt income u/s. 10(34) . The assessee disallowed expenditure of Rs. 3,64,34,450/- being interest on ICD incurred for earning the exempt income u/s. 14A . The AO made disallowance by invoking Rule 8D , wherein total disallowance of expenditure u/s 14A r.w.r. 8D was worked out at Rs. 4,10,78,401/-. The AO considered interest on ICD as well administrative expenses for making disallowance u/s 14A r.w.r. 8D while the assessee only considered interest on ICD for disallowance. The learned CIT(A) directed the A.O to adopt reasonable basis on the method consistent with all the relevant facts and circumstances of the case to compute disallowance u/s. 14A . We have also observed that the tribunal in assessee's own case in ITA no. 3684/Mum/2012 and 8981/Mum/2010 for AY 2004-05 and 2005-06 , vide common orders dated 11th May, 2016 has given relief to the assesses by holding as under:

> " *2. The assessee company is engaged in the business of investing and dealing in shares and securities. The company derives its income from short term and long term investments in shares, mutual fund, equities and investment in real estate. The assessee company is a 100% subsidiary of the Tata Power Company Ltd. The assessee company invested in the subsidiary company and earned exempt income but the contention of the assessee is that the expenditure incurred upon the strategic investment is not liable to be added in the income of the assessee. But the Assessing Officer assessed the same as income of assessee and the learned CIT(A) confirmed the order of Assessing Officer therefore the assessee filed an appeal for the above mentioned assessment year before us.*

3. However, the assessee has raised number of issues but the learned representative of the assessee only raised the issue u/s.14A of the Income Tax Act, 1961(in short "the Act") wherein the learned CIT(A) confirmed the disallowance the interest expenditure to the tune of Rs.8,42,08,035/- for A.Y.2004-05 and Rs.9,70,012/- for A.Y.2005-06. The learned representative of the assessee has argued that the assessee expended the money for strategic investment with the object to control the stake in group concern and not to earn the income, therefore, in the said circumstances no disallowance of any kind is required in connection with the expenditure incurred if any for the said investment in view of the law settled in [2014] 46 taxmann.com 18, Income Tax Appellate Tribunal, Mumbai bench in case of Garware Wall Ropes Ltd. Vs. Additional Commissioner of Income Tax Range 5(1), [2009] 183 taxman 159 (Bom) in case of Commissioner of Income Tax - 8 Vs. Srishti Securities Pvt. Ltd. and [2013] 35 taxmann.com 210 (Delhi) High court of Bombay in case Commissioner of Income Tax Vs. Oriental Structural Engineers Pvt. Ltd.. However, on the other hand learned departmental representative has refuted the said contention. In the instant case investment made in subsidiary company for strategic investment i.e. for commercial expediency or investment or stock in trade is in question. Assessing Officer disallowed the interest expenditure to the tune of Rs.84,20,803/- for A.Y. of 2004-05 and an amount of Rs.7,70,012/- for the A.Y.2005-06. But in connection with the strategic investment in the subsidiary company the law is not quite clear that if any company made an investment in subsidiary company for commercial expediency or investment or stock in trade for any purpose of controlling interest in other companies then interest paid to such parties would not be taxable u/s.36(1)(iii) of the Act. In view of the above mentioned law appeal of the appellant are hereby allowed and Assessing Officer is hereby directed to re-calculate the expenditure incurred towards the dividend income by excluding the investment made for controlling interest in the other companies while computing average value of investment. The law settled in [2014] 46 taxmann.com 18, Income Tax Appellate Tribunal, Mumbai bench in case of Garware Wall Ropes Ltd. Vs. Additional Commissioner of Income Tax Range 5(1), [2009] 183 taxman 159 (Bom) in case of Commissioner of Income Tax - 8 Vs. Srishti Securities Pvt. Ltd. and [2013] 35 taxmann.com 210 (Delhi) High court of Bombay in case Commissioner of Income Tax Vs. Oriental Structural Engineers Pvt. Ltd. in accordance with law.

4. In result the both the appeal of the assessee are hereby allowed for statistical purpose."

It is also brought on record that the department has already passed an order giving effect to the afore-stated tribunal orders dated 11-05-2016 and the addition made u/s 14A stood deleted , vide AO order giving effect dated 05-06-2017 to tribunal passed by the AO which is placed in file , wherein it is held by the AO as under:-

"

Name of Assessee	*Af-Taab Investment Co. Ltd,*

Address	*24, Homi Modi Street, Bombay House, Mumbai-400001*
PAN	*AAACA4800H*
Status	*Company*
Assessment Year	*2005-06*
Date of the order	*05.06.2017*

Order Giving Effect to ITAT's order

In view of the Hon'ble ITAT's order ITA no. 3684/Mum/2012 and ITA no. 8981/Mum/2010 dated 11.05.2017.

The total assessed income is recomputed as under:

Particulars	*Rs.*
Total income as per order giving effect dated 05.06.2017	*(2,28,25,500)*
Less: Relief granted by ITAT vide order dated 11th May 2016 (3,92,31,324+9,70,012) Disallowance u/s 14A	*(4,02,01,336)*
Total income/Loss	*(6,30,26,836/-)*

Total income as per the provisions of section 115JB is computed as under:

Particulars	*Rs.*
Book profits assessed under section 115JB- as per order giving effect dated 05.06.2017	*20,76,01,107*
Less: Relief granted by ITAT vide order dated 11 May 2016 (3,92,31,324 +9,70,012) Disallowance u/s. 14A	*(4,02,01,336)*
Taxable book profit	*16,73,99,771*

Similar order giving effect to the tribunal order for AY 2004-05 was passed by the AO which is placed in file.

Subsequent to the aforesaid orders of the tribunal, we have observed that Hon'ble Karnataka High Court vide order dated 31-05-2016 in the case of United Breweries Ltd. v DCIT (2016) 72 Taxmann.com102(Kar HC) has held that section 14A is applicable where motive is to acquire shares in order to obtain controlling interest in the investee company . The relevant portion of the Hon'ble Karnatka High Court order is reproduced hereunder:

> ***"8.*** *So far as second question of applicability of Sec.14A of the Act to the expenses incurred by the appellant towards interest and others on the loan*

borrowed is concerned, the finding of the Tribunal is at paragraph11 which reads as under :

> *"11. The revenue is in appeal and we have considered the rival contentions. IN our view, the recent judgment of the Special Bench in Bombay in ITO v. Daga Capital Management Pvt. Ltd. (2009) 312 ITR (AT) 1, is applicable to the facts of the present case. In this order, it has been held that section 14A is applicable even where the motive in acquiring the shares was to obtain controlling interest in the companies. The finding of the Commissioner of Income-tax (Appeals) cannot, therefore, be upheld as it is contrary to the decision of the Special Bench. We, accordingly, uphold in principle the applicability of section 14A. However, it is for the Assessing Officer to ascertain from the facts of the case as to how much interest bearing borrowings was utilized to acquire shares in the companies. It is also necessary to see as to whether any interest bearing borrowed funds were used in making the advances and expenditure in the case of Castle Breweries. This factual exercise has to be carried out by the Assessing Officer after giving due opportunity to the assess of being heard. The Assessing Officer may make the disallowance of interest u/s.14A only if it is found that interest bearing borrowed funds were used to acquire shares in the companies or for making advances to Castle Breweries. We, therefore, restore this issue to the file of the Assessing Officer with the above directions. The ground is treated as partly allowed."*
>
> ***9.*** *The aforesaid shows that the Tribunal after holding in principle the applicability of Sec. 14A, has further directed the Assessing Officer to ascertain from the facts of the case as to how much interest bearing borrowings was utilized to acquire shares in the companies and the matter is relegated to the Assessing Officer. As per the language in Sec.14A, the enquiry has to be undertaken by the Assessing Officer which has been so ordered by the Tribunal. Hence, it can be said that the Tribunal has exercised the discretion where rights of both sides are kept open for admissible deduction under Sec.14A. When such a discretion is exercised and the rights of the appellant-assessee is also kept open to satisfy the Assessing Officer, it cannot be said that any substantial questions of law would arise for consideration, as sought to be canvassed. In our view, at the stage of enquiry under Sec.14A, it is open to the Assessing Officer to independently consider the matter for admissibility of the interest on borrowings and if yes to what extent. Hence, when the question at large is further to be considered by the Assessing Officer, we do not find that any further observations are required to be made in this regard. In any case, the question of law as sought to be canvassed would not arise for consideration at this stage on the said aspects as sought to be canvassed."*

We have also observed that Hon'ble Supreme Court in the recent decision dated 08-05-2017 in the case of Godrej and Boyce Manufacturing Company

Limited v. DCIT reported in (2017) 81 taxmann.com 111(SC) has dealt with applicability of Section 14A by holding as under:

> ***"35.*** *We may now deal with the second question arising in the case.*
>
> ***36.*** *Section 14A as originally enacted by the Finance Act of 2001 with effect from 1.4.1962 is in the same form and language as currently appearing in sub-section (1) of Section 14A of the Act. Sections 14A (2) and (3) of the Act were introduced by the Finance Act of 2006 with effect from 1.4.2007. The finding of the Bombay High Court in the impugned order that sub-sections (2) and (3) of Section 14A is retrospective has been challenged by the Revenue in another appeal which is presently pending before this Court. The said question, therefore, need not and cannot be gone into. Nevertheless, irrespective of the aforesaid question, what cannot be denied is that the requirement for attracting the provisions of Section 14A(1) of the Act is proof of the fact that the expenditure sought to be disallowed/deducted had actually been incurred in earning the dividend income. Insofar as the appellant-assessee is concerned, the issues stand concluded in its favour in respect of the Assessment Years 1998-1999, 1999-2000 and 2001-2002. Earlier to the introduction of sub-sections (2) and (3) of Section 14A of the Act, such a determination was required to be made by the Assessing Officer in his best judgment. In all the aforesaid assessment years referred to above it was held that the Revenue had failed to establish any nexus between the expenditure disallowed and the earning of the dividend income in question. In the appeals arising out of the assessments made for some of the assessment years the aforesaid question was specifically looked into from the standpoint of the requirements of the provisions of sub-sections (2) and (3) of Section 14A of the Act which had by then been brought into force. It is on such consideration that findings have been recorded that the expenditure in question bore no relation to the earning of the dividend income and hence the assessee was entitled to the benefit of full exemption claimed on account of dividend income.*
>
> ***37.*** *We do not see how in the aforesaid fact situation a different view could have been taken for the Assessment Year 2002-2003. Sub-sections (2) and (3) of Section 14A of the Act read with Rule 8D of the Rules merely prescribe a formula for determination of expenditure incurred in relation to income which does not form part of the total income under the Act in a situation where the Assessing Officer is not satisfied with the claim of the assessee. Whether such determination is to be made on application of the formula prescribed under Rule 8D or in the best judgment of the Assessing Officer, what the law postulates is the requirement of a satisfaction in the Assessing Officer that having regard to the accounts of the assessee, as placed before him, it is not possible to generate the requisite satisfaction with regard to the correctness of the claim of the assessee. It is only thereafter that the provisions of Section 14A(2) and (3) read with Rule 8D of the Rules or a best judgment determination, as earlier prevailing, would become applicable.*
>
> ***38.*** *In the present case, we do not find any mention of the reasons which had prevailed upon the Assessing Officer, while dealing with the Assessment Year*

2002-2003, to hold that the claims of the Assessee that no expenditure was incurred to earn the dividend income cannot be accepted and why the orders of the Tribunal for the earlier Assessment Years were not acceptable to the Assessing Officer, particularly, in the absence of any new fact or change of circumstances. Neither any basis has been disclosed establishing a reasonable nexus between the expenditure disallowed and the dividend income received. That any part of the borrowings of the assessee had been diverted to earn tax free income despite the availability of surplus or interest free funds available (Rs. 270.51 crores as on 1.4.2001 and Rs. 280.64 crores as on 31.3.2002) remains unproved by any material whatsoever. While it is true that the principle of res judicata would not apply to assessment proceedings under the Act, the need for consistency and certainty and existence of strong and compelling reasons for a departure from a settled position has to be spelt out which conspicuously is absent in the present case. In this regard we may remind ourselves of what has been observed by this Court in Radhasoami Satsang v. CIT [1992] 193 ITR 321/60 Taxman 248 (SC).

> *"We are aware of the fact that strictly speaking res judicata does not apply to income tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year."*

39. *In the above circumstances, we are of the view that the second question formulated must go in favour of the assessee and it must be held that for the Assessment Year in question i.e. 2002-2003, the assessee is entitled to the full benefit of the claim of dividend income without any deductions."*

We have also observed that Hon'ble Bombay High Court in the case of Principal CIT v. Reliance Capital Asset Management Ltd. in ITA no. 487 of 2015 has passed an order dated 19-09-2017 , wherein it held as under:-

> " *21. We cannot find any fault with this conclusion of the First Appellate Authority based as it is on the language of sub-section (2) of Section 14A of the Act, reproduced above. The Commissioner was aware that the assessee is acting as an Asset Management Company of Reliance Mutual Fund. Its principal business is of managing the mutual fund schemes of Reliance Mutual Fund. As Investment Manager, the assessee has earned management and advisory fees. The assessee has invested its own surplus fund in various investments and earned income thereon which included exempt dividend income and exempt capital gains. Once the main activity is of Investment Manager and the expenses are primarily in relation to this activity, the assessee invested the surplus funds into various securities which has given them exempt income. The Tribunal has found that the total investments made are of*

Rs.70.62 crores as on 1-4-2007 and which has come down to 68.26 crores as on 31-3-2008. The investment is mainly made by the assessee in various schemes of Reliance Mutual Fund and its subsidiaries. There should not be any dispute that the investments made in the various schemes of Reliance Mutual Fund and also in the group concerns are on account of business policy. The assessee received dividend from 27 transactions, out of which 8 receipts were by way of direct credit to its Bank account and 19 receipts were in the form of reinvestment of dividend, namely, the dividend amount was reinvested and it did not physically receive the sum. The transactions relating to earning of dividend income as well as long term capital gains are limited. Even the Investment Schedule of the Balance Sheet was perused by the Tribunal and it found that all the transactions are mainly restricted within the group companies/schemes.

22. Therefore, these transactions were analysed and in the backdrop of the business of the assessee, the Tribunal concluded that there was no necessity to apply the formula prescribed in Rule 8D(2)(iii) of the Rules. We are, therefore, not in agreement with Mr. Suresh Kumar that Rule 8D(2)(iii) has been overlooked or ignored by the Tribunal completely. In the peculiar facts and circumstances of the assessee's case and the nature of its investments made, the Tribunal concluded that the disallowance worked out by the assessee should have been accepted. However, it did not accept the figure of disallowance worked out by the assessee. That although the Tribunal, in one line or sentence in para 8, says that the disallowance to be made under Rule 8D is determined at Rs.3,50,000/-, we are not in agreement with Mr. Suresh Kumar that the Tribunal has accepted the applicability of this Rule/sub-rule/clause. This one sentence or one line cannot be read in isolation and out of context. Once the formula prescribed in Rule 8D(2)(iii) of the Rules could not have been applied is the essential conclusion, then, merely because the Tribunal did not accept the working of disallowance by the assessee in its entirety, does not mean that the appeal raises a substantial question of law. We do not think that the Tribunal's exercise can be termed as totally erroneous or illegal. It is neither perverse. The Tribunal's order cannot be said to be vitiated by an error of law apparent on the face of the record. We do not think that the working by the Tribunal or the determination of the disallowance at Rs.3,50,000/- does not meet the ends of justice. It is restricted bearing in mind the facts and peculiar to the assessee's case. Partly the assessee's arguments have been accepted and the appeal allowed by setting aside the order of the Assessing Officer and that of the Commissioner of Income Tax (Appeals). We do not think that the question proposed by Mr. Suresh Kumar is a substantial question of law."

The decision of Hon'ble Bombay High Court in the case of CIT v. Srishti Securities Private Limited reported in (2010) 321 ITR 498(Bom.) wherein Hon'ble Bombay High Court has held that interest on funds borrowed by an investment company for making investment in shares which may be held as investment or stock in trade or for the purposes of controlling interest in

other companies shall be allowed as deduction u/s 36(1)(iii). . The assessee has voluntarily suo motu disallowed an interest expenditure on ICD to the tune of Rs.3,64,34,451/- u/s 14A which disallowance was raised by the AO to Rs. 4,10,78,401/- , wherein administrative expenses were also considered by the AO for making disallowance u/s 14A r.w.r. 8D which was not considered earlier by the assessee. The matter need to be set aside and restored to the file of the AO for computing disallowance u/s 14A afresh and the ratio of aforesaid decisions of Hon'ble Courts read with provisions of Section 14A and 36(1)(iii) shall be applied by the A.O. to factual matrix of the case while computing disallowance u/s 14A keeping also in view the claim of the assessee that it is an investment company holding more than 99% investments in subsidiaries companies/strategic investments and also that the assessee is a single segment company being an investor and dealer in shares & securities and consequently all the business expenses ought to have been incurred towards this segment under normal circumstances unless otherwise shown, which shall also be kept in view by the AO while computing disallowance. We order accordingly.

With respect to the second issue , the contentions of the assessee are that disallowance computed under section 14A cannot be added to book profits u/s 115JB for computing Minimum alternative tax. The Special Bench of the tribunal in the case of ACIT v. Vireet Investment P Ltd. reported in (2017) 82 taxmann.com 415(Delhi-trib.)(SB) has decided this issue. The decision of Special Bench of the tribunal is binding on us. The AO is directed to follow ratio of decision of Special Bench of the tribunal in the case of Vireet Investment Private Limited(supra) and work out disallowance accordingly. We order accordingly.

This disposes of the appeal of the assessee as well Revenue in ITA No. 4284/Mum/2014 and ITA no. 1807/Mum/2011 respectively for AY. 2006-07.

8. In the result appeal of the Assessee and Revenue in ITA No. 4284/Mum/2014 and ITA no. 1807/Mum/2011 respectively for AY 2006-07 are allowed for statistical purposes. We order accordingly.

Revenue Appeal- ITA No. 1812/Mum/2011 for AY 2007-08

9. Our decision in Revenue's appeal in ITA 1807/Mum/2011 for assessment year 2006-07 shall apply mutatis mutandis to the appeal of the Revenue in ITA no. 1812/M/2011 for AY 2007-08. The appeal of the Revenue is allowed for statistical purposes. We order accordingly.

10. In the result appeal of the Revenue in ITA no. 1812/Mum/2011 for AY 2007-08 is allowed for statistical purposes. We order accordingly

Assessee's Appeal- ITA no. 7069/Mum/2013 for AY 2009-10

11. From the perusal of Balance Sheet of the assessee during the course of assessment proceedings u/s 143(3) r.w.s. 143(2), it was observed by the AO that the assessee is investor and dealer in shares and securities . The assessee is having investments in shares and mutual fund. The assessee earned dividend income of Rs. 6,69,80,635/- during the previous year relevant to the impugned assessment year which was claimed as an exempt income . The assessee was asked by the AO to explain why disallowance u/s. 14A r.w.Rule 8D should not be made . The assessee made following submissions:-

> *"As per assessee company's P&L A/c total expenses amount to Rs. 38,04,573/- of which expenses incurred for earning of exempt dividend income of Rs.6,69,80,635/- consisting of the following:*
>
> | | | |
> |---|---|---|
> | *1.* | *Dematerialisation charges* | *Rs. 36,910/-* |
> | *2.* | *Transaction tax on sale of investment* | *Rs.54,738/-* |
> | *3.* | *Transaction tax on purchase of investment* | *Rs.43,719/-* |
> | | | *Rs.1,35,367/-* |
>
> *Out of balance amount of Rs.36,69,206/- expenses like rates and taxes, professional fees, directors sitting fees, legal expenses, insurance premium internal audit fees, auditors remuneration, maintenance charges, or electricity charges have no relation or nexus to dividend income. Therefore, proposed disallowance of the above expenses as being attributable to earning of dividend income is unfair"*

The A.O observed that all the expenses which are connected with the exempt income have to be disallowed u/s. 14A regardless of whether they are direct or indirect , fixed or variable and managerial or financial and the same is to be worked out as per the mechanism laid down in 14A(3) in accordance with

the method as prescribed under Rule 8D . The AO worked out disallowance of direct expenditure being dematerialisation expenses to the tune of Rs. 36,910/- under Rule 8D(2)(i) r.w.s. 14A and disallowance at the rate of 0.5% of average investments was worked out by the AO under Rule 8D(2)(iii) r.w.s. 14A , which led to aggregate disallowance to the tune of Rs. 41,39,108/- vide assessment order dated 31-10-2011 passed by the AO u/s 143(3), as against disallowance of Rs. 1,35,367/- worked out by the assessee.

12. Aggrieved by the assessment order dated 31-10-2011 passed by the AO u/s 143(3), the assessee filed first appeal before learned CIT(A) who gave part relief to the assessee by holding as under, vide appellate orders dated 27-09-2013:-

> *"3.3 The Assessing Officer's order, submissions made for the appellant and materials on records have been considered. The case pertains to A.Y. 2009-10. It is fairly settled that section 14A r.w.r. 8D is applicable. Section 14A of the I.T. Act is a special provision and provides for disallowances of expense relatable to exempted income. Section 14A(i) stipulates that for the purposes of computing the total income under Chapter. IV, no deduction shall be allowed in respect of an expenditure "incurred" by the assessee "in relation to" an income which does not form part of the total income under the Income tax Act.*
>
> *3.3.1 It is pertinent to note that as per Section 14A(2) of the Act if the AO is not satisfied with the correctness of the claim of the taxpayer of the expenditure related to exempt income, then the AO shall calculate the expenditure ay applying Rule 8D of the Rules. There is no discretion to the Assessing Officer for restricting the disallowance to the extent of exempt income as he has to follow the formula provided in Rule 8D. It may be stated here that, the issues arising out of application of sec.14A and Rule 8D now stand settled by Godrej and Boyce Mfg. Ltd. vs DCIT(2010) 43 DTR 177 (Bom) in which it was decided that the provisions of Rule 8D are not ultra vires the provisions of section 14A and do not offend Article 14 of the Constitution. Further, in view of the clear enunciation in Memorandum explaining the provisions of the Finance Bill, 2006 and further clarification by CBDT vide Circular No.14 of 2006, sub section (2) of section 14A is applicable from A.Y.2007-08 onwards. The Hon. Bombay High Court in the case of Godrej and Boyce Mfg. Ltd., has held that the provisions of Rule 8D shall apply w.e.f. A.Y.2008-09. Therefore, it is evident that all expenses connected with the exempt income have to be disallowed u/s.14A regardless of whether they are direct or indirect, fixed or variable and managerial or financial in accordance with law. It is further evident that deduction in respect of expenditure incurred by the assessee in relation to exempt income and taxable income has to be determined as per the mechanism laid down in sub-section (B) of section 14A and the method as*

prescribed under Rule-8D. Therefore, the Assessing Officer was justified in invoking the provisions of Rule 8D.

3.3.2 If one reads subsection (3) along with subsection (2), it simply means that in a case where the assessee claims that no expenditure has been incurred in respect of the exempt income, the AO shall determine the amount of expenditure incurred in relation to such income in accordance with the method as may be prescribed in view of the provisions of subsection (2). Therefore, since from assessment year 2008-09, rule 8D is applicable, the AO shall be free to compute the disallowance of expenditure as per this rule in respect of the exempt income in all such cases where the assessee claims that no expenditure has been incurred in respect of the said income and no suo-mote disallowance of expenditure has been made by the assessee. This is quite logical as well, because it cannot be the case of any investor that he has not incurred even a single penny for making such investment and earning of exempt income there-from. This is exactly the case of the appellant, where accounts are kept on a mixed fund basis, and for the purpose of investment in shares, mutual funds etc, separate accounts have not been kept. Although the appellant has given a number of arguments based on the facts of its case, still, in spite of that, due to reasons cited above, it cannot be accepted that the appellant has not incurred even a single penny for making investment, maintaining the investment portfolio and thereby earning exempt income. Even if the requirement of AO's satisfaction in this regard is considered necessary, the very knowledge of the fact on the part of the AO that the appellant has not disallowed any expenditure suo-moto was sufficient for her to compute the disallowance under rule 8D read with section 14A of the Act.

3.3.3 The argument of the appellant that on strategic investment no dividend is earned cannot be accepted. The appellant has made investment in all big public limited companies when the said company declare dividend the appellant will earn exempt.

3.5.4 The argument of the assessee that the disallowance may be restricted to the amount debited in the P&L a/c. of Rs.38,04,573/- is found to be in order. The A.O. is directed to restrict the disallowance at Rs.38,04,573.

3.5.5 The second argument of the appellant that on investment on debentures no exempt income is earned. Therefore they should be excluded while calculating 5% (sic.0.5%) of average investment made by appellant merits consideration income from investment in debentures are chargeable to tax. Therefore, while calculating average value of investment they should be excluded. The A.O, is therefore directed to exclude the investment in debentures as it earns taxable income and recalculate the disallowance under 5% (sic.0.5%)of average investment."

13. Aggrieved by the appellate order dated 27-09-2013 passed by learned CIT(A) , the assessee has come in appeal before the tribunal .

The Ld. Counsel for the assessee submitted that the assessee has incurred expenses of Rs.1,35,367/- towards earning of exempt income as is referred to in Section 14A . It was submitted that the A.O. has adopted 0.5% of average investments while computing disallowance u/s 14A which led to the disallowance of Rs. 41,76,018/- (including disallowance of direct expenses of Rs. 36,910/-) which is higher than the total expenses of 38,04,573/- claimed by the assessee in its P&L A/c as an expense for the entire year. It was submitted that strategic investments/stock in trade are to be excluded for computing disallowance under 14A . It was submitted that strategic investments were more than 91% of the total investment . It was also submitted that no satisfaction was recorded by the A.O as is contemplated u/s 14A(2). It was submitted that Rule 8D is applied and disallowance have been made more than the expenses debited to the P&L Account which is not permissible. However, it is submitted that learned CIT(A) gave the relief on this account by restricting disallowance to the actual expenditure incurred by the assessee as claimed in Profit and Loss Account.

Ld. DR on the other hand relied upon the order of the learned CIT(A) .

14. We have considered rival contentions and perused the material on record. We have observed that the assessee is investor and dealer in shares and securities . The assessee is having investments in shares and mutual fund. The assessee earned dividend income of Rs. 6,69,80,635/- during the previous year relevant to the impugned assessment year which was claimed as an exempt income . The assessee has incurred total expenditure of Rs. 38,04,573/- which was debited to Profit and Loss account . The assessee claimed to have incurred following expenses in relation to the earning of exempt income:-

1.	*Dematerialisation charges*	*Rs. 36,910/-*
2.	*Transaction tax on sale of investment*	*Rs.54,738/-*
3.	*Transaction tax on purchase of investment*	*Rs.43,719/-*
		Rs.1,35,367/-

The A.O invoked Rule 8D r.w.s. 14A which led to disallowance of expenses to the tune of Rs. 41,76,018/- which was higher than actual expenses of Rs. 38,04,573/- incurred by the assessee as debited to Profit and Loss Account which disallowance was later restricted by learned CIT(A) to actual expenditure. The assessee is a single segment company being an investor and dealer in shares & securities and consequently all the business expenses ought to have been incurred towards this segment under normal circumstances unless otherwise shown, which shall also be kept in view by the AO while computing disallowance. The issue of disallowance u/s 14A and manner of computing disallowance is discussed by Hon'ble Supreme Court in the case of Godrej & Boyce Manufacturing Company Ltd.(supra) wherein it has been held by the Hon'ble Supreme Court in para 37 as under:-

> *"37. We do not see how in the aforesaid fact situation a different view could have been taken for the Assessment Year 2002-2003. Sub-sections (2)and (3) of Section 14A of the Act read with Rule 8D of the Rules merely prescribe a formula for determination of expenditure incurred in relation to income which does not form part of the total income under the Act in a situation where the Assessing Officer is not satisfied with the claim of the assessee. Whether such determination is to be made on application of the formula prescribed under Rule 8D or in the best judgment of the Assessing Officer, what the law postulates is the requirement of a satisfaction in the Assessing Officer that having regard to the accounts of the assessee, as placed before him, it is not possible to generate the requisite satisfaction with regard to the correctness of the claim of the assessee. It is only thereafter that the provisions of Section 14A(2) and (3) read with Rule 8D of the Rules or a best judgment determination, as earlier prevailing, would become applicable."*

Thus , the A.O is directed to compute the disallowance u/s 14A in accordance with the ratio of decision of the Hon'ble Supreme Court in the case of Godrej & Boyce Manufacturing Company Ltd.(supra).

We would also like to hasten to add that our decision regarding investments in subsidiary company/ strategic investment as detailed in cross appeals being ITA no. 1807/Mum/2011 and ITA no. 4284/Mum/2014 for AY 2006-07 shall apply mutatis mutandis to the issue in this appeal in ITA no. 7069/Mum/2013 for AY 2009-10.

We are also of the considered view that only those investments which have

yielded exempt income shall be considered for computing average value of investment for the purposes of Rule 8D(2)(iii) keeping in view ratio of decision of Special Bench of the tribunal in the case of Vireet Investment Private Limited(supra), wherein tribunal held as under:

> ***"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."*

The issues under this appeal are therefore restored to the file of the AO for denovo determination of the issues in accordance with our above directions. We order accordingly.

15. In the result appeal of the assessee in ITA No. 7069/Mum/2013 for AY 2009-10 is allowed for statistical purposes.

Cross Appeal-ITA No. 6546/Mum/2014(Assessee's appeal) and 6573/Mum/2014 (Revenue appeal)-AY 2010-11

16. Our decision in ITA no. 7069/Mum/2013 for AY 2009-10 shall apply mutatis mutandis to the assessee's appeal in ITA No.6546/Mum/2014 for AY 2010-11. With respect to the stock-in-trade being shares and securities held by the assessee , we are of the considered view that the said stock-in-trade cannot be included for the purposes of disallowance u/s. 14A as the same are held as business asset for trading purposes and not for earning of exempt income. The assessee has rightly relied on the decision of Hon'ble Punjab and Haryana High Court in the case of Pr. CIT v. State Bank of

Patiala (2017) 78 taxmann.com 3 (P&H HC) and we agree with the said proposition advanced by the assessee. The Hon'ble Court in the case of State Bank of Patiala(supra) held as under:

> ***"30.*** *It is not necessary to refer to Mr. Bansal's further submissions in support of this issue. We will, therefore, only note them. Mr. Bansal submitted that the computational provision of rule 8D is applicable to investments and not stock-in-trade. Rule 8D, therefore, would not come into play in relation to exempt income by way of dividend and interest from stock-in-trade and, accordingly, section 14A would not be applicable in relation to incidental income by way of tax free income, namely, interest or dividend which is exempt under sections 10(15)(iv)(h), (34) and (35). The term "investment" does not include stock-in-trade. He relied upon Accounting Standard (AS) 13, issued by the Institute of Chartered Accountants of India, to contend that there is a distinction between investment and stock-in-trade. Stock-in-trade is not investment as per clause 3.1 of AS 13. Rule 8D refers only to investment and not stock-in-trade. Section 14A and rule 8D constitute an integrated code and as the computation provisions do not apply, as the word used therein is investment and not stock-in-trade, the charging section cannot be read to include stock-in-trade. Mr. Bansal then relied upon the fact that variable-B in rule 8D(2)(ii) refers to "the average value of investment". He emphasised the word "investment". He relied upon clause 3.1 of AS 13 issued by the Institute of Chartered Accountants of India, recognized under section 145(2) of the Act, in so far as it draws a distinction between investment and stock-in-trade. As per clause 3.1, stock-in-trade is not an investment. He contended that section 14A, which is a charging section, and rule 8D, which is the computation provision, constitute an integrated code and as the computation provisions do not apply, as the word used therein is "investment" and not "stock-in-trade", the charging section also cannot apply.*
>
> *In view of what we have held, it is not necessary to consider this aspect of the matter."*

This disposes of the assessee's appeal which stood allowed for statistical purposes.

The revenue is aggrieved by the decision of learned CIT(A) directing exclusion of diminution in the value of investments for the purposes of computation of disallowance u/s 14A.We have observed that the AO has also included diminution in the value of investments for the purpose of computing disallowance u/s. 14A , which loss has arisen because of the restructuring/amalgamation owing to loss written off of in the investment in subsidiary namely Vantech Investments Limited, which stood merged with the assessee. In our considered view , said

losses being diminution in the value of investment being written off cannot be considered as an expenditure incurred for earning of exempt income for the purposes of disallowance under Section 14A as the mandate is to disallow expenditure incurred in relation to earning of an exempt income and it cannot be stretched to include losses arising due to diminution in the value of the investments due to merger/amalgamation, that certainly is not the mandate of Section 14A. We affirm the order of learned CIT(A) on this ground and dismiss the appeal of the Revenue. We order accordingly.

17. In the result, the assessee's appeal is allowed for statistical purposes while Revenue appeal is dismissed.

Assessee's appeal in ITA no. 7128/Mum/2014-AY 2011-12

18. Our decision in ITA no. 6546/Mum/2014 for AY 2010-11 shall apply mutatis mutandis to appeal in ITA no. 7128/Mum/2014 for AY 2011-12 as facts are similar. We order accordingly.

19. In the result appeal in ITA no. 7128/Mum/2014 for AY 2011-12 is allowed for statistical purposes.

Order pronounced in the open court on 16.11.2017

आदेश की घोषणा खुले न्यायालय में दिनांकः 16.11.2017 को की गई ।

Sd/-	Sd/-
(D.T. GARASIA)	(RAMIT KOCHAR)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, dated: 16.11.2017

Nishant Verma
Sr. Private Secretary

copy to…

1. The appellant
2. The Respondent
3. The CIT(A) – Concerned, Mumbai
4. The CIT- Concerned, Mumbai
5. The DR Bench, E
6. Master File

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BY ORDER

DY/ASSTT. REGISTRAR
ITAT, MUMBAI