

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER
&**

SHRI AMARJIT SINGH, JUDICIAL MEMBER

**ITA No.1378/Mum/2020
(Assessment Year :2016-17)**

Shree Naman Securities & Finance Pvt.Ltd., 104, Shree Naman Plaza Opp. Shankar Lane, 41 S.V. Road, Kandivali-West Mumbai- 400 067	Vs.	Deputy Commissioner of Income Tax, Circle-5(4) Aaykar Bhavan Mumbai
PAN/GIR No.AAACN1917G		
(Appellant)	..	(Respondent)

Assessee by	Shri Mahesh Rajora
Revenue by	Shri Rohit Kumar
Date of Hearing	07/09/2021
Date of Pronouncement	08/09/2021

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.1378/Mum/2020 for A.Y.2016-17 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-53, Mumbai in appeal No.CIT(A)-53/IT-560/DCCC-5(4)/2018-19 dated 16/12/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 28/12/2018 by the Id. Asst. Commissioner of Income Tax, Central Circle 5(4), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is with regard to disallowance made u/s.14A of the Act r.w.r. 8D(2) of the Rules under the normal provisions of the Act.

3. We have heard rival submissions and perused the materials available on record. We find that assessee is a member of Bombay Stock Exchange (BSE) and National Stock Exchange (NSE) and is engaged in the business of share broking, shares and securities trading and other incidental activities. During the year under consideration, the assessee received dividend income of Rs.20,85,460/- on investment and shares and **securities held as 'stock in trade'**. No suo moto disallowance of expenses was made u/s.14A of the Act by the assessee in its return of income. The Id. AO by applying the computation mechanism provided in Rule 8D(2) of the Rules proceeded to make the disallowance u/s.14A of the Act as under: -

(i) Under Rule 8D(2)(ii)	-	Rs.1,46,29,283/-
(ii) Under Rule 8D(2)(iii)	-	Rs. 9,57,827/-

3.1. This action of the Id. AO was upheld by the Id. CIT(A). We find from the financial statements of the assessee which are enclosed in the paper book that assessee is having own funds of Rs.7.09 Crores as on 31/03/2016 and Rs.9.45 Crores as on 31/03/2015. The investments that had actually yielded exempt income were only Rs.2.67 Crores as on 31/03/2016 and Rs.4.35 Crores as on 31/03/2015. Since, the own funds are sufficiently available and are more than the investments that had actually yielded exempt income, following the ratio laid down by the **Hon'ble Jurisdictional High Court in the case of HDFC Bank Limited**

reported in 366 ITR 505, we hold that no disallowance of interest under Rule 8D(2)(ii) of the Rules could be made in the facts of the instant case.

3.2. With regard to disallowance of indirect expenses under Rule 8D(2)(iii) of the Rules, we direct the Id. AO to consider only those investments which had actually yielded exempt income to the assessee and re-compute the disallowance under Rule 8D(2)(iii) of the Rules accordingly, subject to the condition that in any case, the disallowance shall not exceed exempt income. Accordingly, the grounds raised by the assessee are disposed of in the aforesaid manner.

4. In the result, appeal of the assessee is partly allowed.

Order pronounced on 08/09/2021 by way of proper mentioning in the notice board.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 08/09/2021

KARUNA, sr.ps

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai