IN THE INCOME TAX APPELLATE TRIBUNAL
VARANASI BENCH, VARANASI

BEFORE SH. SUDHANSHU SRIVASATVA, JUDICIAL MEMBER
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER

ITA No.48/VNS/2025
A.Y.-2018-19

Utkarsh Coreinvest Limited, S-24/1-2, Fourth Floor, Orderly Bazar, Mahavir Nagar, Varanasi, U.P.	vs.	DC/ACIT-R1
PAN: AAECS9298K		
(Appellant)		(Respondent)

Assessee by:	Sh. Hiten Thakkar, Adv
Revenue by:	Sh. Deepak Yadav, Sr. DR
Date of hearing:	04.08.2026
Date of pronouncement:	16.10.2026

O R D E R

PER NIKHIL CHOUDHARY, A.M.:

This is an appeal filed by the assessee against the order of the ld. CIT(A), NFAC dated 7.01.2025, wherein the ld. CIT(A) has dismissed the appeal of the assessee against the order passed by the ld. Assessing Officer under section 143(3) r.w.s. 143(3A) and 143(3B) of the Income Tax Act for the assessment year 2018-19 dated 18.03.2021. The grounds of appeal are as under:-

> *"1. The learned CIT(A) erred in confirming the disallowance made by the Assessing officer ('learned AO') of an amount of Rs 2,14,98,928 under section 14A of the Act read with Rule 80 of the Income-tax Rules, 1962 (Rules), by taking into account the value of investments made in subsidiaries, from which no exempt income was earned as against the disallowance suo-moto made by the Appellant amounting to Rs 73,715.*
>
> *2. Without prejudice to the above, the learned CIT(A) erred in confirming the disallowance made by the learned AO under section 14A of the Act at Rs 2,14,98,928, instead of restricting it to the amount of exempt income earned during the year amounting to Rs 3,25,205.*

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3. Without prejudice to the above, while allowing the disallowance of all the expenses debited to profit and loss account of the Appellant under section 14A of the Act, the learned CIT(A) erred in confirming the inadvertent disallowance made by the Learned AO of the adjustments made by the Appellant itself while computing its taxable income (as per the tax return filed), amounting to Rs 1,11,28,019, thereby leading to double disallowance.

4. The Learned CIT(A) has erred in confirming the incorrect computation and levy of consequential interest under section 234A and 234B of the Act.

5. The Learned CIT(A) has erred in confirming the incorrect computation of interest under section 234C of the Act."

2. The facts of the case are, that the appeal of the assessee company was taken up for limited scrutiny under the e-Assessment Scheme, 2019 on the issue of expenses incurred for earning of exempt income. During the course of assessment proceedings, the ld. Assessing Officer observed that the assessee had received dividend income of Rs. 3,25,205/- from mutual funds and claimed the same as exempt. Furthermore, it had disallowed a sum of Rs. 11,348/- as expenses related to exempt income. When asked to furnish the working of disallowance under section 14A as per Rule 8D, the assessee company submitted a written submission with a revised computation, wherein it enhance the disallowance under section 14A to Rs. 73,715/- and offered the additional amount of Rs. 62,367/- for taxation. It further submitted that no exempt income was received from the shares invested in subsidiary companies during the financial year and therefore, the same had not been considered in computation for disallowance under section 14A. The ld. Assessing Officer considered the said submissions of the assessee but did not find them to be acceptable. He held that the assessee had invested a sum of Rs. 169,99,44,060/- in Utkarsh Small Finance Bank Limited and Rs. 5,00,000/- in Utkarsh Welfare Foundation. These investments had not been included in the working out of average monthly investments. Thus, the working adopted by the assessee to arrive at the disallowance was not correct. The ld. Assessing Officer relied upon the CBDT Circular No. 05/2014

dated 11.02.2014 to point out that even in cases where corresponding exempt income had not been earned during the financial year Rule 8D r.w.s. 14A of the Act provided for disallowance of expenditure. Furthermore, the ld. Assessing Officer pointed out that the mandate of section 14A required the assessee to maintain proper books of account with regard to the investments made from which the income could arise, which was tax exempt, and for such books to be produced before the ld. Assessing Officer to ascertain the actual expenditure incurred in relation to income not includable in the total income of the assessee. However, in the instant case, the assessee had not maintained any separate books of account in this regard. Accordingly, the assessee's claim of not incurring any expenditure in relation to the tax-free income to be earned from its investments, were not supported by documentary evidences as mandated in section 14A(2) and 14A(3) of the Income Tax Act. In the absence of such accounts, the ld. Assessing Officer could not be expected to examine the claim of the assessee having regard to its accounts. However, since incurrence of establishment expenses other administrative and general expenses could not be ruled out with regard to the maintaining of an investment portfolio coupled with the fact of involvement of key managerial personnel in the decision-making process, it was clear that certain common expenses had been incurred by the assessee to earn the tax-free income. Hence, he recorded the satisfaction that the provisions of section 14A were attracted and that the assessee had not furnished a correct computation, due to which he was invoking rule 8D of the Income Tax Rules. Since the assessee had not furnished a month-wise breakup of total investments, the ld. Assessing Officer computed the average value of investment by taking the opening and closing value of investments as appearing in the balance-sheets dated 1.04.2017 and 31.03.2018 respectively. He, thereafter he computed the total disallowances as per Rule

8D at Rs. 7,27,74,859/-. However, since the total expenses were only Rs. 2,15,10,276/- and the assessee had already disallowed an amount of Rs. 11,348/- *suo moto,* he restricted the addition to Rs. 2,14,98,928/-.

3. Aggrieved with this decision of the ld. Assessing Officer, the assessee filed an appeal before the ld. CIT(A). Before the ld. CIT(A), it was contended that the ld. Assessing Officer had erred in disallowing an amount of Rs. 2,14,98,928/- under section 14A r.w.r. 8D of the Income Tax Rules, 1962 by taking into account the value of investment made in subsidiaries, from which no exempt income was earned, as against the disallowance *suo moto* made by the assessee amounting to Rs. 73,715/-. For the said proposition, the assessee placed reliance on the judgment of the ITAT Chennai Bench in the case M/s Siva Industries & Holdings Ltd. v. Assistant Commissioner of Income-tax, (2011) 59 DTR 182 (Chennai) (Trib.), wherein the Chennai Bench of the Tribunal had held that where there was no claim of income which does not form part of total income under the Act, there could not be any disallowance in relation to an investment which may or may not give rise to any income which does not form part of total income. It further relied upon the decision of the Hon'ble Delhi High Court in the case of Cheminvest Limited vs. CIT (2015) 378 ITR 33 (Delhi), where the Hon'ble Delhi High Court had deleted the disallowance under section 14A of the Act in the absence of any exempt income during the year. It also drew references to various other decisions, including the decision of Hon'ble Allahabad High Court in the case of CIT v. Shivam Motors (P.) Ltd., (2015) 230 Taxman 63 (All.) where the Courts had held that the provisions of section 14A were not applicable where no exempt income was earned, even though the investments had a potential to yield an exempt income. Based upon the above decisions, the assessee had *suo moto* disallowed an amount of Rs. 73,715/- under section 14A of the Act, considering the investments in

mutual funds which had yielded dividend income during the year under consideration. For the purposes of calculation of disallowance as per the formula prescribed under Rule 8D of the rules, it was submitted that except the amount disallowed, no other expenditure incurred by the assessee could be said to have a direct and proximate connection with the earning of exempt income and thus no further disallowance could be made under the provisions of the Act. The assessee also drew attention to the decision of the ITAT Mumbai in the case of Morgan Stanley Investment Management Pvt. Ltd. v. DCIT-2, Mumbai in ITA No. 5195/Mum/2014, wherein the Bench had held that the ld. Assessing Officer had to consider the correctness of the claim of the assessee having regard to the accounts of the assessee and since in this particular case, the ld. Assessing Officer had not rejected the computation with regard to the accounts of the assessee, the power to invoke rule 8D was not there with the ld. Assessing Officer. It was also submitted that in any case, the disallowance could not exceed the amount of exempt income that was earned during the year and for this proposition, the assessee placed reliance on the decision of the Hon'ble Supreme Court in the case of Principal Commissioner of Income-tax, Patiala v. State Bank of Patiala [2018] 99 taxmann.com 286 (SC), wherein the Hon'ble Supreme Court had dismissed the SLP against the decision of the Hon'ble Punjab & Haryana High Court in which the same had been held. It also cited various other judgments in support of this proposition. After considering such submissions, the ld. CIT(A) referred to the decision of the Hon'ble Supreme Court in the case of Maxopp Investment Ltd. vs. CIT (2018) 402 ITR 640, and pointed out that in that case, the Hon'ble Supreme Court had held that the dominant purpose theory for the investment was not relevant and if dividend income had been earned that much of the expenditure which is attributable to the dividend income had to be disallowed and cannot be treated as business expenditure.

From the same, he concluded that the purpose of investment into shares made by an assessee is not relevant and the disallowance shall be made on investment in subsidiaries also. However, Rule 8D provided that the disallowance should be restricted to the amount of expenditure claimed by the assessee and since the ld. Assessing Officer had done that, the appeal of the assessee is fit to be dismissed on this account.

4. The assessee is aggrieved by this decision of the ld. CIT(A) and has accordingly come before us. Sh. Hiten Thakkar, Advocate (hereinafter referred to as the ld. AR) appearing on behalf of the assessee submitted that the ld. CIT(A) had erred in confirming disallowance made by the ld. Assessing Officer of an amount of Rs. 2,14,98,928/- under section 14A of the Act r.w.r. 8D of the Income Tax Rules by taking into account the value of investments made in subsidiaries from which no exempt income was earned as against the *suo moto* disallowance made by the assessee amounting to Rs. 73,715/-. It was submitted that in view of various case laws cited by the assessee which had all held that Rule 8D could not be invoked in a case where exempt income was not earned, the ld. Assessing Officer had erred while including non-dividend yielding investments while calculating the 1% average value. It was submitted that the ld. CIT(A) had erred in applying the judgment of the Hon'ble Supreme Court in the case of Maxopp Investment Ltd. vs. CIT (supra) to reject the contention of the assessee in this regard. In that case, the Hon'ble Supreme Court had held that the dominant purpose test could not exempt the provisions of section 14A being applied to a subsidiary company if exempt income had been earned from the same. However, it had no application to the facts of the present case where no exempt income had been earned from the investment with the subsidiary companies / trust. In case of such investments, the principle laid down by the various Courts that there could be no application of Rule 14A and

invocation of Rule 8D in the absence of any exempt income, had to be applied and therefore, investment made by the company that did not yield exempt income had to excluded while computing the 1% average value. Furthermore, the ld. AR argued that since the ld. Assessing Officer had not rejected the computation filed by the assessee with reference to the accounts of the assessee, Rule 8D could even otherwise not be invoked.

5. On the other hand, Sh. Deepak Yadav, Sr. DR (hereinafter referred to as the ld. DR) submitted that the ld. Assessing Officer had clearly pointed out that the assessee did not maintain separate books of account for exempt income and had not submitted the monthly opening and closing balances of investments where no dividend had been received during the financial year. Therefore, the assessee's claim of not incurring any expenditure in relation to tax free income to be earned from its investments was not supported by documentary evidences as mandated in section 14A(2)/(3) of the Act. Therefore, the ld. Assessing Officer could not be faulted for not making detailed references to the accounts of the assessee. However, he had recorded his satisfaction that incurrence of establishment expenses, other administrative and general expenses etc., could not be ruled out with regard to maintaining the investment portfolio and therefore, certain common expenses *ipso facto* were incurred by the assessee while managing its investments and earning the tax-free income. The ld. DR therefore, placed reliance on the orders of the ld. Assessing Officer and the ld. CIT(A) to submit that the additions should be confirmed.

6. We have duly considered the facts and circumstances of the case and the arguments advanced by both parties. We note that the Special Bench of the ITAT in the matter of ACIT v. Vireet Investment (P.) Ltd. (2017) 82 taxman.com 415 (Delhi ITAT SB) has categorically held that only those

investments which actually yielded exempt income during the relevant previous year can be factored into the average value computation for section 14A disallowances. Similarly, the Hon'ble Delhi High Court in Cargo Motors Private Limited vs. Dy CIT, (2023) 453 ITR 554 / 291 Taxman 208 (Delhi)(HC) has held that for computing disallowance under section 14A r.w.r. 8D, only those investments which actually yielded except income during the relevant assessment year could be considered. It referred to the decisions of the Hon'ble Calcutta High Court in the case of Principal Commissioner of Income Tax, Central-1, Kolkata v. M/s. Shalimar Pellet Feeds Ltd (2022) 2 TMI 1209 (Cal. HC) which held that Rule 8D could only be applied with reference to shares which yielded dividend income during the year under consideration and also the decision of the Hon'ble Madras High Court in the case of CIT, Chennai vs. Shriram Ownership Trust, 318 CTR 233, wherein the Court had held that investments yielding no exempt income were to be excluded while computing the 14A disallowance. It also referred to previous decisions in ACB India Limited vs. ACIT (2015) 374 ITR 108, wherein it had been held that the ld. Assessing Officer cannot factor the entire investment portfolio into the Rule 8D computation where the statutory formula concerns investment relating to exempt income and its decision in PCIT vs. M/s Caraf Builders and Constructions Private Limited (2019) 414 ITR 122 (Delhi HC), wherein the Court had held that total investments could not be substituted for investments which yield exempt income. In view of all these decisions of the various Courts which hold that it is only the investments which yielded exempt income that could be considered for computing the disallowance under Rule 8D, the stand of the ld. CIT(A) in confirming the entire amount of disallowance made with reference to the total investment portfolio does not appear to be the correct legal position. In view of the same, since the assessee has already *suo moto*

made a disallowance of Rs. 73,715/- after considering the mutual fund portfolio that yielded dividend income, the addition of Rs. 2,14,98,928/- made over and above the same is deleted and ground no. 1 is accordingly allowed. In view of the same, since the remaining grounds are consequential to the addition of Rs. 2,14,98,928/- made, the deletion of the said addition renders the remaining grounds as infructuous and they are dismissed as such.

7. In the result, the appeal of the assessee is held to be partly allowed.

Order pronounced on 16.10.2026 in the Open Court.

Sd/-	***Sd/-***
[SUDHANSHU SRIVASTAVA]	**[NIKHIL CHOUDHARY]**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

DATED: 16/10/2026
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Copy forwarded to:
1. Appellant –
2. Respondent –
3. CIT DR, ITAT
4. CIT,
5. The CIT(A)

By order
Sr. P.S.