

Prior to applying Rule 8D, AO must record his dissatisfaction regarding suo-motu sec. 14A disallowance offered by assessee

Summary – The High Court of Bombay in a recent case of Bombay Stock Exchange Ltd., (the Assessee) held that before applying Rule 8D, AO must record his dissatisfaction regarding suo-motu sec. 14A disallowance offered by assessee

Facts

- The assessee earned dividend income and in the return of income disallowed a certain sum under section 14A as an expenditure attributable to the earning of exempt income.
- In assessment, the Assessing Officer rejected the claim of disallowance under section 14A and worked out a lower disallowance by application of rule 8D of 1962 Rules.
- On the assessee's appeal, the Commissioner (Appeals) dismissed the appeal.
- On further appeal, the Tribunal held that the Assessing Officer did not record his non-satisfaction to reject disallowance under section 14A. Thus, there would be no occasion to invoke rule 8D to work out the disallowance.
- On the revenue's appeal to the High Court:

Held

- The HC stated that non-satisfaction with the disallowance offered by the assessee has to be arrived at on the basis of the accounts submitted by the assessee and in the present case the Assessing Officer had not carried out this exercise but rejected the disallowance claimed by the assessee only on the ground that it was not in accordance with rule 8D. The application of rule 8D would only arise once the Assessing Officer is not satisfied on an objective criteria in the context of its accounts, that *suo motu* disallowance claimed by the assessee is not proper.
- Thus, the Tribunal has correctly come to the conclusion and no interference is required.