

IN THE INCOME TAX APPELLATE TRIBUNAL
“C” Bench, Mumbai
Before Shri B.R. Baskaran (AM) & Shri Pawan Singh (JM)

I.T.A. No. 8585/Mum/2011
(Assessment Year 2003-04)

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| Percept Finserve Pvt. Ltd. Percept House 22, Raghuvanshi Estate 11/12 Senapati Bapat Marg Lower Parel Mumbai-400 013. | Vs. | ACIT Circle 7(1) Aayakar Bhavan M.K. Road Mumbai-400 020. |
| (Appellant) | | (Respondent) |

PAN No.AABCP2392Q

| | |
|-----------------------|--------------------|
| Assessee by | None |
| Department by | Smt. Bharati Singh |
| Date of Hearing | 24.10.2016 |
| Date of Pronouncement | 24.10.2016 |

ORDER

Per B.R. Baskaran (AM) :-

The appeal filed by the assessee is directed against the order dated 30.8.2011 passed by the learned CIT(A)-13, Mumbai and it relates to A.Y. 2003-04.

2. None appeared on behalf of the assessee even though notice of hearing was sent by RPAD on more than one occasion and the assessee was present on earlier occasions. Hence, we proceed to dispose of the appeal ex-parte, without presence of the assessee.

3. We heard learned Departmental Representative and perused the record. The assessee is challenging the decision of the learned CIT(A) in confirming the addition made u/s. 2(22)(e) of the Act to the extent of ₹ 37,56,256/-.

4. The assessee has received unsecured loans from M/s. Infinity Communications (P) Ltd. in which it held 56.04% shares and also from M/s.

Percept Holdings (P) Ltd., wherein it held 72.72% of loan. The assessee received ₹ 30 lakhs and ₹ 20 lakhs respectively from the above said concerns. The Assessing Officer assessed the same as deemed dividend u/s. 2(22)(e) of the Act. When the matter reached to the Tribunal, the Tribunal restored the matter to the file of the Assessing Officer for considering the matter afresh, vide its order dated 24.11.2009 passed in ITA No. 2468/Mum/2007. In the set aside proceedings the assessee took the plea that it has acted as mediator in transferring the funds received from the above said companies to other concerns i.e. the assessee had transferred funds received from M/s. Infinity Communication (P) Ltd. to SSG Realtors and Developers (P) Ltd. Similarly it had transferred the funds received from Percept Holdings (P) Ltd. to M/s Chaitanya Developers. The assessee also took the plea that accumulated profit available with M/s. Infinity Communications Pvt. Ltd. was ₹ 17,66,256/- and hence addition u/s. 2(22)(e) of the Act can be made to the extent of accumulated reserve only. The Assessing Officer however assessed the entire loan amount as deemed dividend u/s. 2(22)(e) of the Act. In the appellate proceedings, the learned CIT(A) restricted the addition to ₹ 37,66,256/-. Hence the assessee has filed this appeal before us.

5. We noticed that the assessee could not substantiate its explanation before the Assessing Officer as well as Ld CIT(A) and hence the learned CIT(A) confirmed the addition, however, to the extent of accumulated profit available with the lender companies. Before us also, no material was placed by the assessee to substantiate its contention that it had acted as mediator or the transactions were in the normal course of business. Under these set of facts, we have no other option but to confirm the order passed by the learned CIT(A).

6. In the result, appeal filed by the assessee is dismissed.
Order has been pronounced in the Court on 24.10.2016

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER
Mumbai; Dated : 24/10/2016

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

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.

//True Copy//

PS

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai