

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1606/Ahd/2017

(निर्धारण वर्ष / Assessment Year : 2014-15)

Sardar Dairy Ltd. Nr. Gujko Masol, B/h. RTO, Highway Mehsana 384002	बनाम/ Vs.	ITO Ward-3, Mehsana
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AADCS0881M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri P. M. Mehta, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri T. Sankar, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	30/01/2019
घोषणा की तारीख /Date of Pronouncement	31/01/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax (Appeals), Gandhinagar ('CIT(A)' in short), dated 03.05.2017 arising in the assessment order dated 01.11.2016 passed by the

Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15.

2. The solitary issue in the captioned appeal is disallowance of interest amount to Rs.3,35,976/- under S. 36(1)(iii) of the Act on account of interest free advances of Rs.33,33,105/- lent by the assessee.

3. With the assistance of the learned AR for the assessee, we have gone through the record carefully. It emerges from the record that the assessee has given advance of Rs.33.33 Lakhs without charging any interest. The learned AO has calculated notional interest on such interest free advance and disallowed interest expenditure to the extent of Rs.3,35,976/-. An identical disallowance was made in AY 2012-13 and AY 2013-14. However, on appeal to the Tribunal, the disallowance was deleted on the ground that the assessee was having its own interest free capital far in excess of the corresponding advances in question. The issue having been adjudicated in favour of the assessee on these facts in the earlier assessment years (refer ITA No.3082/Ahd/2016 AY 2013-14), which in turn, is in conformity with the long line of judicial precedent, we do not see any reason

to depart from the aforesaid view. The order of the CIT(A) thus requires to be set aside and the AO is directed to delete the disallowance on this score.

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

This Order pronounced in Open Court on 31/01/2019

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 31/01/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अद्योषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।