

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD òSMCö BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA Nos. 2710 & 2711/Ahd/2017
Assessment Year 2012-13 & 2013-14**

M/s Vijay Steel, Opp. Zenith High School Dabhoi Road, Pratap Nagar, Vadodara-390019 PAN: AADFM8807A (Appellant)	Vs	The ITO, Ward-3(1)(2), Baroda (Respondent)
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**Revenue by: Shri Virendra Singh, Sr. D.R.
Assessee by: None**

Date of hearing : 13-06-2019
Date of pronouncement : 27-06-2019

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

These two appeals filed by assessee for A.Y. 2012 -13 & 2013-14, arise from order of the CIT(A)-3, Vadodara dated 29-08-2017, in proceedings under section 143(3) of the Income Tax Act, 1961; in short òthe Actö.

2. In both the appeals of the assessee, a common issue is involved of disallowing interest expenses of Rs. 1,80,000/- in respect to loan of Rs. 20 lacs taken on 10th May, 2010 from Mr. Sampatkumar Dadhich, proprietor of Maan Diamond treating the said loan as non-genuine. This appeal is filed against the decision of the Id. CIT(A) in sustaining the aforesaid disallowance of interest expenses of Rs. 1,80,000/- by the assessing officer as per assessment made u/s. 143(3) of the act.

3. As the facts in both the appeals is similar, so, we take ITA No. 2710/Ahd/2017 as a lead case and its findings will be applicable to ITA 2711/Ahd/2017 for the sake of convenience.

4. The fact in brief is that the case of the assessee was subject to scrutiny and assessment u/s. 143(3) of the act was passed on 20th March, 2015 wherein the interest amount of Rs. 1,80,000/- was added to the total income of the assessee. During the course of assessment, it was noticed that assessee obtained loan from Maan Diamonds and the closing balance of loan as on 20th march, 2015 was Rs. 20 lacs on which the assessee has claimed interest payment of Rs. 1,80,000/-. The assessing officer has reported that a search action u/s. 132 of the act was conducted in the case of the Bhanwarlal Jain Group by investigation Wing Mumbai on 3rd April, 2013. As per the incriminating document evidences seized from the search, it was established that Bhanwarlal Jain Group was involved in providing accommodation entries through various bogus concerns operated by them. It was established that Bhanwarlal Jain and Family have used 70 benami concerns to give accommodation entries in the nature of bogus purchases and bogus

unsecured loans to various beneficiaries. Most of the persons were operating dummy concerns were merely employees of Bhanwarlal Jain and family and in their statements recorded u/s. 132(4) of the act, they have admitted that they were merely dummy director/partner/proprietor working on behalf of Bhanwarlal. During the course of investigation in the case of the Bhanwarlal Jain Group, it was found that they have provided accommodation entries of unsecured loans to various beneficiaries and assessee Vijay Steel was one of the beneficiaries who has obtained bogus unsecured loan from Maan Diamonds which was one of the benami concerns of the Bhanwarlal Group engaged in providing accommodation entries of loans. The assessing officer has elaborated the detail of modus operandi adopted by the benami concerns of Bhanwarlal Group in providing accommodation entries at page no. 13 to 32 of the assessment order. Since the assessee has not obtained any new fresh unsecured loan from Maan Diamonds during the year under consideration, therefore, amount of interest to the amount of Rs. 1,80,000/- on the outstanding loan payable to the aforesaid concerns was disallowed and added to the total income of the assessee on the ground that interest was paid to the bogus concerns.

5. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee stating that assessing officer has passed detailed and very reasoned order.

6. We have heard the Id. departmental representative and gone through the material on record. It is noticed that during the course of appellate proceedings before Id. CIT(A), the assessee has given written submission

reported at page no. 5 to 10 of the order of Id. CIT(A). However, it is noticed that Id. CIT(A) has dismissed the appeal of the assessee without passing any speaking order and without citing points of determination and reasons for the decision. The relevant part of the decision of the Id. CIT(A) is reproduced as under:-

“5. I have considered that the facts of the case, submissions of the appellant and the AO’s observations. The Assessing Officer has passed detailed and very reasoned order. The appellant has not furnished any new facts before me in support of the grounds of appeal taken except filing copies of the ledger accounts of the entry providers. Considering the totality of facts and circumstances, the Grounds of appeal taken are dismissed.”

It is demonstrated from the decision of the Ld. CIT(A) as supra that Id. CIT(A) has not adjudicated the issue with detailed reasoning. The provisions of the section 250(6) are in the nature of instructions to be appellate authority and emphasizing that the order disposing of the appeal shall be a speaking order. The order shall be self -explanatory. Such orders are to state the points arising in the appeal, the decision of the authority thereon and the reasons for such decision.

In the light of the above facts and circumstances, we consider that as per section 250(6) of the IT act, the order of the Commissioner(Appeal) disposing of the appeal shall state the points for determination, the decision thereon and reason for the decision. After considering the aforesaid decision of Id. CIT(A), we observe that Id. CIT(A) has not decided the issue with speaking order along with reasons for the decision as laid down in the provision of section 250(6) of the act. Therefore, we restore this issue to the file of Id. CIT(A) to re-adjudicate and pass speaking order with reasons for

the decision as laid down u/s. 250(6) of the act. Accordingly, the appeal of the assessee is allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

8. In the combined result, both the appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open court on 27-06-2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 27/06/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश क०० तलम अ० षत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलअध अधिकरण,
अहमदाबाद