

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. Bhavnesh Saini, Judicial Member

ITA No. 1228/Del/2019 : Asstt. Year : 2013-14

Pushpanjali Hospitality Pvt. Ltd., 29, Najafgarh Road, Shivaji Marg, New Delhi-110015	Vs	Income Tax Officer, Ward-20(2), New Delhi-110092
(APPELLANT)		(RESPONDENT)
PAN No. AAACM0006B		

Assessee by : None

Revenue by : Sh. S. L. Anuragi, Sr. DR

Date of Hearing : 17.07.2019	Date of Pronouncement : 01.08.2019
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ORDER

This appeal by the assessee has been directed against the order of Id. CIT(A)-7, New Delhi dated 08.01.2018 for assessment year 2013-14.

2. Briefly the facts of the case are that assessee company during the year is constructing a hotel in Goa. No other business activity is being undertaken during the year. Return of income was filed on 14.09.2013, declaring loss of (-) Rs.1,21,897/-. The AO passed the assessment order u/s 143(3) of the Income Tax Act, 1961 dated 29.02.2016, making addition of Rs.27,91,207/- after disallowing the amount on account of interest paid on overdraft and legal & professional charges and disallowance of Rs.38,425/- u/s 14A of the Act.

3. The assessee challenged both the addition before Id. CIT(A). The assessee contended before the Id. CIT(A) that it had a fixed deposit with HDFC bank and for its routine expenses for Goa hotel, it had taken an overdraft limit against FDR as the routine expenses were not fixed nor they were lump sum. Had it been financed by withdrawing the FDR then there

would have been no interest income and no finance cost. The payments were not large in terms of amount, the decision was taken by the Board of Director to take the overdraft limit against the FDR which is a prudent business policy. The company kept the money in fixed deposit and withdrew money against an overdraft account against the same fixed deposit. Had the company not put the amount in fixed deposit, the company would not have been able to earn the interest on fixed deposit and no income would have accrued to the company and only losses would have been there. The assessee earned income on the deposits, the interest has been paid out of interest earned and since the asset was being deployed as a long term project in Goa, only the net amount of interest earned and interest paid on the same FD could have been added and not the total interest paid. The Id. CIT(A), however, found that assessee had not been carrying out any business activity. Therefore, interest income was rightly assessed as income from other sources. As regards, the disallowance u/s 14A of the Act, the Id. CIT(A) considered the submissions of the assessee and noticed that during the year assessee has received dividend income of Rs.3,11,250/-. The assessee had made total investment of Rs.76,97,000/-. The AO was not satisfied with the claim of the assessee with regard to expenses incurred to earn the exempt income and thereby rejected the claim. The AO determined the expenditure which was relatable to the exempt income. The AO has shown the relationship between the exempt income and expenditure incurred. The Id. CIT(A), therefore, confirmed the addition u/s 14A of the Act also.

4. The assessee in the present appeal has challenged the additions of Rs.27,44,326/- and addition of Rs.38,425/-.

5. The assessee has been notified the date of hearing through registered post, however, none appeared on behalf of the assessee.

6. After considering the submissions of Id. DR, I am of the considered view that no interference is required in the matter. It is an admitted fact that during the year under consideration, no business activity was being undertaken by the assessee. The AO examined both the issues in detail and rightly made the additions. In absence of any material on record, no interference is called for in the matter.

7. In the result, the appeal of the assessee is dismissed.

(Order Pronounced in the Court on 01/08/2019)

Sd/-
(Bhavnesb Saini)
JUDICIAL MEMBER

Dated: 01/08/2019

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR