

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 5683/Mum/2018

(निर्धारण वर्ष / Assessment Years : 2013-14)

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| Subhkam Stocks & Shares Pvt Ltd., (merged into khazana Tradelinks Pvt Ltd.,) 14 th Floor, Maker Chambers IV, 222 Nariman Point, Mumbai | बनाम/ Vs. | DCIT Circle – 4(2)(1) Aayakar Bhavan, MK Road, Mumbai |
| स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No. : AAACM7389K | | |
| (अपीलार्थी /Appellant) | .. | (प्रत्यर्थी / Respondent) |

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| अपीलार्थी ओर से/ Appellant by : | Shri Sanjay R. Palikh, AR |
| प्रत्यर्थी की ओर से/Respondent by : | Shri Akthar H Ansari, DR |

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| सुनवाई की तारीख / Date of Hearing | 06/11/2019 |
| घोषणा की तारीख/Date of Pronouncement | 13/11 /2019 |

आदेश / ORDER

PER R.C. SHARMA(A.M.)

This is an appeal by the assessee against the order of CIT(A) for the A.Y. 2013-14, in the matter of order passed u/s.143(3) of the IT Act.

2. Only grievance of assessee relates to treating the interest income of Rs. 29,24,546/- as income from other sources against business income declared by the assessee.

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3. Rival contentions have been heard and record perused. Facts in brief are that the assessee is a private company, during the previous year, relevant to the A.Y 2013-14, carried on its business of dealing in shares & securities. The assessee filed its return of income for the A.Y 2013-14 on 27.09.2013, declaring a total income / (loss) at Rs. Nil, comprising of income / loss from business. While assessing the income from business at Rs. Nil, A.O assessed interest income as income from other source at Rs. 29,24,546/-. By the impugned order, the CIT(A) confirmed the action of AO.

3. I found that assessee was in receipt of interest of Rs. 10,24,986/- on loan advanced, and interest of Rs. 18,98,560/- as interest on fixed deposits given to National Stock Exchange (NSE). I found that assessee was dealing in shares and securities and was members with National Stock Exchange. During the F.Y 2011-12, the assessee decided to surrender its trading membership of the exchange and for that purpose it was required to keep fixed deposit of Rs. 1,44,50,000/- for a period of three years as per the norms of surrendering the trading membership of

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exchange, pending acceptance by the exchange of surrendering of trading membership by the assessee.

4. I have found that this deposit was under business compulsion, accordingly interest income is to be taxed as income from business only. This deposit was not kept by the assessee as per his sweet-will but under business compulsion, therefore interest on such deposit is to be assessed as income from business. However, interest income with respect to deployment of surplus funds with one of the party on temporary basis, does amount to deposit given under any business compulsion, but it was surplus fund which the assessee has deployed for earning interest income. Accordingly A.O has justified in treating such interest income as income from other sources.

5. In the result appeal of the assessee is allowed in part.

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| This Order pronounced in Open Court on | 13/11/2019 |
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Sd/-
(R.C. SHARMA)
ACCOUNTANT MEMBER

Mumbai, Dated 13 /11/2019
KRR, PS

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai

2. Other Member...
6. Date on which the approved draft comes to the Sthe Bench Clerk.....18.1.18
7. Date on which the file goes to the Head Clerk.....