

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

**BEFORE SHRI R.C.SHARMA, ACCOUNTANT MEMBER**

**ITA No.196 & 197/Mum/2019  
(Assessment Years: 2003-04 & 2008-09)**

Dr. V.G. Bhartu, 764-E, Umrigar Building, Tilak Road, Parsee Colony, Dadar (East), Mumbai-400014.	Vs.	I.T.O., 7(3)(1) Room No. 675, 6 <sup>th</sup> Floor, Aayakar Bhawan, M.K. Road, Mumbai-400020.
<b>PAN/GIR No.AACP B 7638 P</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Dr. Vivek Bhartu
Revenue by	Shri Akhtar H Ansari (DR)
<b>Date of Hearing</b>	<b>22/01/2020</b>
<b>Date of Pronouncement</b>	<b>22/01/2020</b>

**आदेश / O R D E R**

**PER: R.C. SHARMA, A.M.**

These appeals by the assessee are directed against the separate orders of Id. CIT(A)-14, Mumbai dated 02/08/2018 for the A.Y. 2003-04 & 2008-09 respectively in the matter of order passed u/s 143(3) r.w.s 254 of the Income Tax Act, 1961 (in short, the Act).

2. Common grievance of the assessee relate to addition made by invoking provisions of Section 2(22)(e) of the Act on account of deemed dividend.

3. Rival contentions have been heard and record perused. Facts in brief are that the assessee was holding substantial shareholding in private limited companies namely Om Estates and Finance Pvt. Limited

(OEFPL), Vivek Bhartu Consultancy Pvt. Ltd. (VBCPL) and Bhartu Estates Pvt. Ltd. (BEPL). These companies have advanced amounts to the assessee and his proprietary concerns namely Shree Constructions, Elegant exports and Aqua Elixir in the course of their business. These companies have also made payments on behalf of the assessee and his concerns for their business expenses. In the A.Y. 2003-04, the amount of advances and expenses paid amounting to Rs. 2,83,512/- by OEFPL is taxed by the A.O. as deemed dividend U/s 2(22)(e) of the Act. The A.O. observed that the condition specified in Section 2(22)(e) of the Act relating to shareholding held by the assessee are squarely applicable and since loans have been given out of accumulated income, the same is liable to tax U/s 2(22)(e) of the Act. By the impugned order, the Id. CIT(A) has confirmed the action of the A.O., against which the assessee is in further appeals before the ITAT.

4. I have considered the rival contentions and carefully gone through the orders of the authorities below and found from the record that the assessee has incurred expenditure on behalf of the company in which he was the Managing Director. The expenditure so incurred was paid through his credit card account and the company has subsequently reimbursed the same. Thus, such reimbursement of expenditure does not amount of any loan or advance to the assessee.

I had carefully gone through the statement of account of the company wherein the company has directly made payment to the bank in which the assessee was holding credit card and all payments were pertaining to the expenditure incurred by the assessee in respect of the company and the same have also been debited to the P&L account of the assessee. Thus, there is no any loan or advance to the assessee but only reimbursement of expenses which is not covered by any mischief of provisions of Section 2(22)(e) of the Act. Accordingly, I do not find any merit in the addition made by the A.O. U/s 2(22)(e) of the Act.

5. Since the facts and circumstances of the appeal for the A.Y. 2008-09 are pari materia, therefore, by following the reasoning giving in the appeal for the A.Y. 2003-04, I did not find any merit in the addition so made by the A.O. for the A.Y. 2008-09.

6. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open court on 22<sup>nd</sup> January, 2020.

**Sd/-**  
**(R.C.SHARMA)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 22/01/2020  
\*Ranjan

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.

3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**