

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“ B ” BENCH, AHMEDABAD

BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER And
SHRI WASEEM AHMED, ACCOUNTANT MEMBER

1. आयकर अपील सं./ITA No. 1561/Ahd/2013
2. आयकर अपील सं./ITA No. 1562/Ahd/2013

(निर्धारण वर्ष/Assessment Years : 2006-07 & 2007-08)

1-2. Dilipkumar Manilal Patel Prop. M/s.Dhanlaxmi Chemical Industries 135, Karnavati Park Society Amraiwadi Ahmedabad	बनाम/ Vs.	1. The ITO Ward-12(3) Ahmedabad-380 009 2. The DCIT Circle-12, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.: PAN: AHLPP 0258 P		
(अपीलार्थी/ Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri S.V. Agarwal, AR
प्रत्यर्थी की ओर से/ Respondent by:	Shri Vidhyut Trivedi, Sr.DR

सुनवाई की तारीख/ Date of Hearing	05/02/2020
घोषणा की तारीख/ Date of Pronouncement	19 /02/2020

आदेश / O R D E R

PER MAHAVIR PRASAD, JUDICIAL MEMBER:

The captioned appeals have been filed at the instance of the Assessee against the separate orders of the Commissioner of Income Tax (Appeals)–XX, Ahmedabad [CIT(A) in short] vide appeal nos.CIT(A)-XX/166/08-09 and CIT(A)-XX/161/09-10 dated 24/09/2009 & 23/09/2010 arising in the assessment orders passed under s.143(3) of the Income Tax Act, 1961(hereinafter referred to as "the Act") dated



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24/12/2008 & 04/12/2009 relevant to Assessment Years (AYs) 2006-07 and 2007-08 respectively.

2. Since both the appeals relate to the same issues involving identical facts & circumstances, hence the same are heard analogously and are being disposed of by way of this common order.

3. In ITA No.1561/Ahd/2013 for AY 2006-07, the assessee has raised the following grounds of appeal:-

- 1. The learned CIT(A) has erred in confirming addition of Unpaid commission expense Rs.34,500/-.*
- 2. The learned CIT(A) has erred in confirming addition of Unpaid Audit Fees Rs.10,000/-.*
- 3. The learned CIT(A) has erred in confirming addition of Rs.46,46,400/- of Unsecured Loans in as much as,*
 - 3.1. Details of deposits have been filed.*
 - 3.2. Op.Balance of depositors Rs.950000 from whom no deposits are received during year are also disallowed.*
 - 3.3. Interest Paid is disallowed twice i.e. once deposit amount in which interest is included & secondly interest is separately disallowed.*
- 4. The learned CIT(A) has erred in confirming addition of interest of Rs.103400 paid on deposits on the ground that deposits are disallowed it is double disallowance as mentioned in ground (3).*
- 5. The learned CIT(A) has erred in confirming the addition to Capital A/c. of Rs.57,46,539/-. In as much as;*
 - 5.1. The addition to Capital is Rs.11,44,000 and not Rs.57,46,539 which is closing balance of capital account as on 31-03-2006.*



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5.2. *Opening Balance & Closing Balance of capital account cannot be treated as addition to capital account.*

The learned CIT(A) has erred in confirming charging of interest us/234B&234C.

The assessee craves for liberty to amend, modify and add any grounds of appeal or furnish additional evidences.

4. Ground Nos.1 & 2 are not pressed by the Ld.AR for the assessee.

5. In ITA No.1562/Ahd/2013 for AY 2007-08, the assessee has raised the following grounds of appeal:

The order of learned Commissioner of Income-tax(Appeals)-XX confirming the order of A.O. is bad in law as well on facts on the following grounds;

1. *The learned CIT(A) has erred in confirming addition made by A.O. in respect of Unsecured Loan of Rs.49,39,299 and addition to capital A/c. of rs.9,82,700 though separate addition for these both is not made because it is considered in making the disallowance u/s.69C of Rs.60,20,938/- as under,*

<u>As per B/s.as on 31-03-2007</u>	<u>Rs.</u>
(1) Debtors	5,31,29,722
Less : (i) Creditors	4,45,26,615
(ii) Bank C.C.	<u>50,87,916</u>
	4,96,14,531
	35,15,191
(2) Investment	12,93,762
(3) Addition to Fixed Assets	<u>12,11,885</u>
Addition made by A.O. u/s.69C	60,20,838
	=====
A.o. took amount Rs.	60,20,938

2. *The learned CIT(A) has erred in confirming disallowance of Interest expense paid of Rs.2,52,753 (Correct Amount Rs.2,48,753)*



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on unsecured loans on the ground that unsecured loans are not genuine. This is double disallowed since it is already included in amount of unsecured loans disallowed Rs.49,39,299 (G.No-1).

3. *The learned CIT(A) has erred in confirming disallowance made by A.O. in respect of following expenses.*

	Rs.
<i>Bad Debts written off</i>	2,47,103
<i>Commission Expenses</i>	7,33,260
<i>Testing Expenses</i>	1,93,040

<i>Total</i>	11,73,403

4. *The learned CIT(A) has erred in confirming interest charged by A.O. u/s.234A/B/C. The whole of the disallowance is disputed.*
5. *The assessee craves for liberty to amend, modify and add any grounds of appeal or furnish additional evidences.*

5. The brief facts of the case are that the assessee is in the business of trading in chemicals. Because of his wife's illhealth and pressure of lenders and suppliers he remained out of Ahmedabad and could not file the required details in support of his case before the lower authorities. In support of his contention, assessee has filed Affidavit dated 03/07/2018 along with support documents. The Assessee has also filed certain documents which were not filed before the lower authorities.

6. At the time of hearing, ld.AR requested that on account of peculiar situation of the case(s), these cases may kindly be remanded back to the file of the Assessing Officer.

7. We are satisfied with the reasons cited by the Ld.AR. Therefore, in the interest of justice, we set aside both the appeals to the file of the



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Assessing Officer to decide the matters afresh as per the grounds of appeal filed by the assessee before the ITAT subject to the cost of ₹2,500/- (Rupees Two thousand five hundred only) per appeal to be paid to the Department as a cost within thirty days from the receipt of this order. Thereafter, the Assessing Officer will decide both the matters afresh as per provisions of law, after giving reasonable opportunity of being heard to the assessee.

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

This Order pronounced in Open Court on	19/02/2020
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Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Ahmedabad; Dated 19/02/2020

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad