

आयकर अपीलीय अधिकरण , ' सी ' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**" C " BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1308/Chny/2018

निर्धारण वर्ष/Assessment Year : 2012-13

M/s. Hansa Research Group  
Private Ltd.,  
No: 24, Sahney Business Center,  
First Floor, Kiroi Road, Vidya Vihar,  
Mumbai – 400 086.

Vs. Assistant Commissioner of  
Income Tax,  
Corporate Circle 2(2),  
121, M.G. Road,  
Nungambakkam,  
Chennai – 600 034.

**[PAN: AAACH 9516M]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. L. Shibi, CS

प्रत्यर्थी की ओर से/Respondent by

: Shri. J. Pavithran Kumar, JCIT

सुनवाईकीतारीख/Date of Hearing

: 13.02.2020

घोषणाकीतारीख/Date of Pronouncement

: 14.02.2020

**आदेश/ O R D E R**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER :**

The assessee filed this appeal against the order of the  
Commissioner of Income Tax (Appeals)-13 in ITA No. 212/CIT(A)-  
13/2012-13 dated 08.02.2018 for assessment year 2012-13-.

2. M/s. Hansa Research Group Pvt. Ltd., the assessee is engaged in market research work. While making the assessment for assessment year 2012-13, the Assessing Officer, inter alia, examined the assessee's transaction with M/s. Hansa Vision India Pvt. Ltd and found that Shri Krishnaswamy Srinivasan and Shri Krishnaswamy Narasimhan, directors of the assessee company, each holding 33% stake in the company which has got accumulated reserves and surplus. Both of the directors were stakeholders with M/s. Hansa Vision India Pvt. Ltd. After examining the transactions he invoked section 2(22)(e) and added Rs. 50,00,000/- to the returned income. Further, the AO found that the assessee claimed depreciation at 10% under the head temporary structures. After examining the documents filed by the assessee, he held that the assets purchased are of a permanent structure giving enduring benefits to the assessee. Therefore, he treated the expenditure claimed by the assessee as capital expenditure and allowed the depreciation at applicable rate and disallowed the balance sum and added to the returned income. Aggrieved, the assessee filed appeal before the CIT(A). The Ld. CIT(A) dismissed the appeal. Aggrieved against that order the assessee filed this appeal.

3. The Ld. AR inviting our attention to page 26 of the paper book, where details of shareholders and debentures at the date of AGM i.e., 24.09.2012 is placed, submitted that the Ld. CIT(A) erred in confirming the addition u/s. 2(22)(e) by completely misunderstanding the facts. The Ld. CIT(A) actually committed an error in applying section 2(22)(e) when the section is not applicable in a scenario where a loan is given by a holding company to a subsidiary company. Only if a loan or advance is given to a shareholder the section is attracted. The present case is exactly opposite wherein the loan is given by a shareholder. The condition laid down in circular no. 495 dated 22.09.1987 are also not satisfied as in the given case there are no common shareholders between the lender and the assessee. Per contra, the Ld. DR submitted that the assessee has not furnished the relevant details either before the AO or before the Ld. CIT(A). Therefore, the facts and circumstances associated with the issue has not been examined by the lower authorities. Further, he submitted that even the details furnished before the Hon'ble ITAT itself is indicating the details of shareholder partners as on the date of AGM i.e., 24.09.2012. Therefore, the Ld. DR prayed that this issue may be remitted back to the AO for a due examination.

4. On the issue of depreciation on temporary structure claimed by the assessee, the Ld. AR inviting our attention to the particulars filed in the

paper book in page 68 & 69 etc., submitted that the invoices indicated that the assets acquired were for temporary structure and installed in a rented premises. When the bench asked as to what happened in the subsequent assessment year, the Ld. AR submitted that they vacated the premises and allowed these structures to remain as such. Per contra, the Ld. DR submitted that from the orders of the lower authorities, it is clear that the assessee has furnished only one voucher and not the entire particulars. Therefore, he submitted that the details placed before the paper book were not examined by the lower authorities. Therefore, the Ld. DR pleaded that the facts associated circumstances needs examination at lower level.

5. We heard the rival submissions. It is clear from the above that the assessee has not furnished the relevant material before the lower authorities for due examination. Therefore, we are of the view that these issues require a fresh examination and hence set aside the orders of the lower authorities for a fresh examination. The assessee shall lay relevant materials in support of its contention before the AO and comply with the requirements of the AO in accordance with law. The AO is free to conduct appropriate enquiry as deemed fit, but he shall furnish adequate opportunity to the assessee on the material etc to be used against it and decide the matter in accordance with law.

6. In the result, the assessee's appeal is partly allowed for statistical purposes.

Order pronounced on Friday, 14<sup>th</sup> February, 2020 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
**उपाध्यक्ष /Vice President**

**Sd/-**  
**(एसजयरामन)**  
**(S. JAYARAMAN)**  
**लेखासदस्य/Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 14<sup>th</sup> February, 2020

**JPV**

आदेशकीप्रतिलिपिअगेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF