

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH 'A', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 1628/H/2017 Assessment Year: 2013-14		
M/s Hemair Systems India Ltd., Hyderabad. PAN - AAACH 9619K	Vs.	Asst. Commissioner of Income-tax, Circle - 2(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Shri A.V. Raghuram
Revenue by:		Shri Sunil Kumar Pandey
Date of hearing:		05/04/2021
Date of pronouncement:		27/05/2021

ORDER

PER L.P. SAHU, AM:

This appeal filed by the assessee for AY 2013-14 is directed against the CIT(A) - 2, Hyderabad's order, dated 19/06/2017 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act".

2. In this appeal, the assessee has raised two substantive grounds of appeal, out of which, the ld. AR of the assessee invited the Bench attention to ground No. 3 wherein the assessee's grievance is that the assessee has raised an additional ground before the CIT(A) praying to restrict the disallowance of interest to

the extent it pertains to the AY under consideration of Rs. 3,66,121/-, but, the CIT(A) did not adjudicate the same.

3. Briefly the facts of the case are that the assessee company, engaged in the business of manufacturing of engineering goods, namely, air conditioning and clean room equipment and industrial fans, filed its return of income for the AY 2013-14 on 27/09/2013 admitting total income of Rs. 4,19,03,320/-. The AO noticed from the ledger account of M/s Hemair Systems UK, which is a sister concern of the assessee, that during the FY 2012-13 the assessee had made advances of Rs. 65,46,053/-, out of OD account maintained by it in SBI, Balanagar Branch, Hyderabad, and though the assessee was paying interest to Bank on OD, the assessee did not charge any interest on the amount advanced to its sister concern. The AO asked the AR of the assessee that to show cause as to why the interest of Rs. 78,57,969/-, which is computed by the AO in his order for FYs 2009-10 to 2012-13 in his order at pages 2 to 4, should not be disallowed u/s 37(1) of the Act, the AR of the assessee submitted that the assessee company had invested money in the said subsidiary company of Rs. 9,45,83,973/-, but, the subsidiary company had not allotted any shares as on today and did not declare any dividend till today.

3.1 Rejecting the submissions of the assessee, the AO held that it is evident that the interest of Rs. 78,57,969/- was not incurred wholly and exclusively for the purpose of business of assessee and hence, he disallowed the said amount of Rs. 78,57,969/- u/s 37(1) of the Act and added the same to the returned income of the assessee.

4. Aggrieved, the assessee preferred an appeal before the CIT(A) raising a following additional ground:

“Without prejudice to any other grounds, the AO erred in disallowing interest of Rs. 78,57,969/- u/s 37(1) of the Act, which interest is for the period for the AYs 2010-11 to 2013-14, while the alleged interest pertaining to the AY under consideration is only Rs. 3,66,121/-.”

5. The CIT(A) confirmed the disallowance of Rs. 78,57,969/- made by the AO without considering the said additional ground raised by the assessee before him.

6. Aggrieved by the order of CIT(A), the assessee is in appeal before us.

7. Before us, the ld. AR of the assessee submitted that the CIT(A) without considering the additional ground raised by the assessee confirmed the addition made by the AO of Rs. 78,57,969/-, which is pertaining to the FYs 2009-10 to 2012-13 as the actual interest pertains to Rs.

3,66,121/- only for this year. He, therefore, requested the Bench to remit the issue back to the file of CIT(A) for a limited purpose to adjudicate the additional ground raised by the assessee before him.

8. On the other hand, the Id. DR objected to the submissions of the Id. AR of the assessee and submitted that the interest on entire advance amount is required to be disallowed.

9. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. We find force in the argument of the assessee that the matter may be remitted to the file of CIT(A) for adjudication of the additional ground raised by the assessee before the CIT(A) as the CIT(A) did not adjudicate or consider the additional ground raised by the assessee while passing the order. We, therefore, remit the issue back to the file of the CIT(A) to adjudicate the additional ground raised by the assessee before him in accordance with law after providing reasonable opportunity of hearing to the assessee in the matter.

10. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 27th May, 2021.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Hyderabad, dated 27th May, 2021

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4	<i>Pr. CIT – 2, Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>