

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'B' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI L. P. SAHU, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

**ITA No. 813/Hyd/2018
Assessment Year : 2014-15**

Dy.CIT, Circle 16(2) vs. Margadarsi marketing Pvt. Ltd.,
Hyderabad Hyderabad

[PAN: AABCM 4752 F]

[Appellant]

[Respondent]

Appellant By : Shri Swaroop Mannava, DR
Respondent By : Shri K. Gopal Chowdary, AR

Date of Hearing : 13/09/2021.
Date of Pronouncement : 21/09/2021.

O R D E R

Per Shri S.S. Godara, J.M. :

This Revenue's appeal for Asst. Year 2014-15 arises from the Commissioner of Income Tax (Appeals)-4, Hyderabad's order dt. 16.02.2018 passed in case No. 0329/2017-18 in proceedings under Section 143(3) of Income Tax Act, 1961 ('the Act').

Heard both the parties. Case file perused.

2. The Revenue proposes the following sole substantive grievance in the instant appeal.

“On the facts and circumstances of the case, and in law, the ld.CIT(A) erred in deleting the addition made on account of deemed dividend u/s 2(22)(e) of Rs.4,43,75,935/-.”

2. We next find that the lower appellate discussion deleting the impugned deemed dividend addition reads as under.

"4. During the course of assessment proceedings, the Assessing Officer observed that the appellant company is providing services to M/s. Ushodaya Enterprises Limited and for rendering such services, the appellant company is receiving advances from M/s Ushodaya Enterprises which are subsequently adjusted against the bills raised for the services rendered. The Assessing Officer further observed that since M/s. Ushodaya Enterprises is having accumulated profits, the excess advances received by the appellant company against the services rendered comes under the purview of deemed dividend u/s 2(22)(e) of the Act. The Assessing Officer rejected the appellant's submission that the company had never borrowed any advance or loan as such and had only sought advances on account for enabling it to render services from time to time and the advances received were regularly adjusted in the bills raised month to month. The Assessing Officer further stated that it fulfills the conditions specified under section 2(22)(e) of the I.T.Act, 1961. Thus, the Assessing Officer treated the 'outstanding advance' received by M/s Margadarsi Marketing (P) Ltd. from M/s. Ushodaya Enterprises Ltd. as deemed dividend in the name of the assessee company as per the provisions of Section 2(22)(e) of the I. T .Act, 1961.

5. In this regard the appellant company stated that during the course of pursuing its business activities in marketing and sales promotion, the company entered into an arrangement with M/s Ushodaya Enterprises Pvt. Ltd., from the inception. During the course of providing its services, the appellant company receives payments from UEPL against the services being rendered as per agreement. The assessee company never borrowed any loan or advance except the said payments received from UEPL against the services. Further, the

appellant company also stated that the subject matter of appeal was decided in favour of the appellant in the earlier years and requested to take the same into consideration and allow the appeal in question.

6. I have carefully considered the facts of the case, the assessment order and the submissions of the appellant. Since the issue under consideration is materially identical to that of my earlier orders in the appellant's own case in ITA No. 0360/13-14, dated 16.02.2017 for AY 2011-12 and ITA No.01141 15-16 dt. 29-05-2017 for A.Y. 2012-13, wherein I relied on the Hon'ble ITAT decision in appellant's own case which is in favour of appellant. Therefore, following the same, the addition made by the Assessing Officer towards deemed dividend u/s 2(22)(e) of the IT Act is deleted for this year also.

3. Suffice to say, it has already come on record that this tribunal's orders in preceding assessment years (supra) hold that the impugned sum representing outstanding advances does not attract the deeming fiction of dividend u/s 2(22)(e) of the Act. The Revenue is fair enough in not pin-pointing any distinction on facts and law in all these assessment years before us. We therefore adopt judicial consistency to affirm CIT(A)'s action deleting the impugned addition. Ordered accordingly.

No other ground or argument has been raised before us.

4. This Revenue's appeal is dismissed.

Order pronounced in the open court on 21st September, 2021.

Sd/-

(L.P. SAHU)
Accountant Member

Sd/-

(S.S. GODARA)
Judicial Member

Hyderabad, Dt. 21.09.2021.

*gmv

Copy to :

1.	Dy.CIT, Circle 16(2), Hyderabad
2.	M/s Margadarsi Marketing Private Ltd,H.No. 6-3-570Eenadu Complex, Somajiguda, Hyderabad – 500 082
3.	CIT(A)-4, Hyderabad.
4.	Pr.CIT – 4, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

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