

आयकर अपीलीय अधिकरण “SMC” न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष ।

BEFORE SRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ ITA No. 6000/Mum/2019

(निर्धारण वर्ष / Assessment Year 2013-14)

Shri Faredoon Edal Desai 2 nd Floor, Gool Annexe, Kerawala Lodge, Station Road, Santacruz (W), Mumbai-400 054	Vs.	The Income Tax Officer, Ward- 22(1)(3), Saroj Wankar, Income Tax Officer-22(1)(3), Mumbai-400 012
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AGMPD9055C		

अपीलार्थी की ओर से / Appellant by	:	Shri Abhay Agrawal, AR
प्रत्यर्थी की ओर से / Respondent by	:	V.K. Chaturvedi; DR

सुनवाई की तारीख / Date of hearing:	04.10.2021
घोषणा की तारीख / Date of pronouncement :	04.10.2021

आदेश / ORDER

महावीर सिंह, उपाध्यक्ष के द्वारा /
PER MAHAVIR SINGH, VP:

This appeal of the assessee is arising out of order of the Commissioner of Income Tax (Appeals)-34, Mumbai [in short CIT(A)], in appeal No. CIT(A)-34/ITO-22(1)(3)/IT-10043/16-17 vide dated 04.06.2019. The Assessment was framed by the Income Tax Officer, Circle-22(1)(3), Mumbai (in short ITO/ AO) for the A.Y. 2013-14 vide order dated 16.03.2016 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. The first issue in this appeal of assessee is against the order of CIT(A) confirming the disallowance of expenses amounting to ₹73,574/-. For this, assessee has raised the following ground:-

“Section 37(1) of the Income Tax Act, 1961:-



Disallowance of Expenses

The learned AO erred in disallowance of the expenses of ₹73,514/- which is business expenditure and the documents related to the same were produced before the Assessing Officer.”

3. I have heard both the sides and gone through the facts and circumstances of the case. I noted that the assessee is in the business of insurance and proprietor of Ahura Insurance Inc. and claimed the following expenses:-

Sr. No.	Nature of expenses	Amount of expenditure claimed	% Disallowed	Amount disallowed
1.	Staff Welfare	89,025/-	10%	8,902/-
2.	Petrol expenses	2,24,220/-	10%	22,422/-
3.	Travelling expenses	14,592/-	10%	1,459/-
4.	Advertisement Expenses	26,091/-	10%	2,609/-
5.	Conveyance	2,13,980/-	10%	21,398/-
6.	Sales Promotion	31,910/-	10%	3,91/-
7.	Office expenses	1,35,331/-	10%	13,533/-

4. The Assessing Officer disallowed 10% of expenses by treating that there is a possibility of personal element. But no other reasons were adduced. The CIT(A) simply confirming the action of the Assessing Officer. I noted from the above expenses that the Assessing Officer has just disallowed by estimating at 10% being personal in nature but neither the Assessing Officer nor CIT(A) has given any finding that how and by what nature it is personal. Since, this is adhoc disallowance, I delete the disallowance and allow the issue of assessee's appeal.

5. The next issue in this appeal of assessee is against the order of CIT(A) confirming the disallowance of expenses



relatable to interest income by invoking the provisions of section 14A of the Act read with Rule 8D of the Rules. For this, assessee has raised the following ground No.2: -

“Section 14A of the Income Tax Act, 1961 Read With Rule 8D

Disallowance as Under Section 14A

The learned Assessing Officer erred in disallowance Under section 14A of ₹53,504/- as the interest expenditure incurred was for the Motor Car which is directly related to the business of the assessee the learned Assessing Officer had disallowed ₹19,026/- under section 14A read with Rule 8D. Balance ₹34,478/- has been disallowed as 0.5 Percent of the average value of investments.”

6. I have heard the rival contentions on this issue and gone through the facts and circumstances of the case. The learned Counsel for the assessee stated that the interest paid of ₹53,504/- relates to purchases of motor car which is directly related to business of the assessee and moreover, he file copy of balance sheet wherein assessee's fund position is more than the investment made in the instruments given rise to exempt income. The exempt income earned by assessee is 1,01,677/-. The fund position explained by assessee that the capital balance in the balance sheet is to the extent of ₹96,22,462/- and investment in shares which give rise to exempt income is to the extent of ₹74,37,051/- as on 31.03.2013. First of all, the assessee has more funds available with him for making investments in instrument giving rise to income, hence, no disallowance under section 14A read with Rule 8D of the Rules



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can be made in view of the decision of Hon'ble Bombay High Court in the case of CIT vs. HDFC Bank (2014) 366 ITR 505 (Bom). Consequently, the expenditure of ₹53,504/- on account of interest was incurred for the purchase of motor car which is directly related to the business of the assessee. Once, this is the fact, no disallowance can be made. I delete the disallowance and this issue of assessee's appeal is allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 04.10.2021.

Sd/-
(महावीर सिंह /MAHAVIR SINGH)
(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 04.10.2021

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai