

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "SMC", MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
AND  
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

**ITA No. 276/MUM/2019  
Assessment Year: 2015-16**

Promise Securities Pvt. Ltd., 202, Hemlok Apartment, 87, Kilachand Path SV Road, Kandivali (W), Mumbai - 400067 PAN: AAACP6634N	<b>Vs.</b>	The Income Tax Officer 13(1)(4), Room No. 216B, Aayakar Bhawan, M.K. Road, Mumbai - 400020
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : None

Revenue by : Ms. Bhoomika Patel (DR)

Date of Hearing : 02/12/2021  
Date of Pronouncement: 22/12/2021

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 31/10/2018 passed by the Ld. Commissioner of Income-tax (Appeals)-21, Mumbai [ in short the Ld CIT(A)] for assessment year 2015-16, raising following grounds:

- “1.) *That the learned Commissioner of Income Tax Appeals 21 confirming the disallowance of interest of Rs. 479440/- is quite illegal.*
- 2) *That the disallowance and confirming of expenses u/s 14A Rs. 315866/- is quite illegal.*

3) *That the appellant further crave to add to and leave alter or to amend any of the aforesaid grounds of appeal as and when necessary.”*

2. At the outset, we may like to mention that despite notifying, neither anyone represented on behalf of the assessee nor any request for adjournment has been filed by the assessee and therefore, the appeal was heard ex parte qua the assessee after hearing arguments by the learned departmental representative.

3. Briefly stated facts of the case are that return of income filed on 23/09/2015 declaring NIL income, was selected for scrutiny assessment and statutory notices under the Income-tax Act, 1961 (in short ‘the Act’) were issued and complied with. The scrutiny assessment under section 143(3) of the Act was completed on 31/10/2017 after making disallowance of ₹ 4,79,440/- for interest in respect of unsecured loan disallowed in earlier years and disallowance of ₹ 3, 15, 866/- in terms of section 14A read with Rule 8D of Income -tax Rules, 1962 ( in short ‘the Rules’).

4. Before the Ld. CIT(A) none represented on behalf of the assessee and he passed order on the basis of the written submission. Regarding the issue of disallowance of interest amounting to ₹ 4,79,440/- the Ld. CIT(A) observed that disallowance of interest has been made in view of the fact that interest had been claimed corresponding to unsecured loans, which have been held as unexplained cash credit in terms of section 68 in earlier years. It was submitted on behalf of the assessee before the Ld. CIT(A) that matter in earlier

years i.e. assessment year 2012-13 was pending before the Income Tax Appellate Tribunal (in short 'the Tribunal') and therefore the matter might be kept in abeyance.

5. We have heard submission by the Ld. Departmental Representative. We find that none represented on behalf of the assessee before the Ld. CIT(A) and therefore order has been passed by the Ld. CIT(A) in ex-parte manner without taking into consideration arguments on behalf of the assessee. In the case of the assessee disallowance of interest has made on the basis of the finding of the lower authorities in earlier years and benefit of finding of the higher appellate authorities if any on the issue in dispute has not been allowed to the assessee. In view of the above facts and in the interest of substantial justice, we feel it appropriate to set aside the order of the Ld. CIT(A) and restore the matter back to him for deciding afresh. The assessee is directed to appear before the Ld. CIT(A) in person or through authorised representative and argue its case with supporting documentary evidences. In case of failure on the part of the assessee to represent before the Ld. CIT(A), the Ld. CIT(A) may pass the order after considering the finding of the higher appellate authorities in assessment year 2012-13 on the issue of addition made in the section 68 of the Act, if any. The grounds raised by the assessee are accordingly allowed for statistical purposes.

6. In the result, the appeal filed with assessee allowed statistical purposes.  
Order pronounced in the open court on 22<sup>nd</sup> December, 2021.

Sd/-

(AMARJIT SINGH)  
JUDICIAL MEMBER

Sd/-

(OM PRAKASH KANT)  
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated: 22/12/2021

Alindra, PS

**आदेश 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 (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai