

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI
BEFORE SHRI AMARJIT SINGH, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA No. 1045/Mum/2021
(Assessment Year: 2014-15)

M/s. Jenmata Traders P. Ltd. 59, Vikas Nagar, Kalwad Road, Jhotwara, Jaipur, Rajasthan-302 021	Vs.	Dy. CIT, Central Circle-7(2), Mumbai
PAN/GIR No. AACCCJ 6115 C		
(Appellant)	:	(Respondent)
Appellant by	:	Shri Ajay Singh
Respondent by	:	Shri Pavan Kumar Beerla
Date of Hearing	:	23.03.2022
Date of Pronouncement	:	28.04.2022

ORDER

Per Kavitha Rajagopal, J. M.:

The present appeal has been filed by the assessee as against the order of the learned Commissioner of Income Tax (Appeals)-49, Mumbai ('Id.CIT(A) for short) dated 08.04.2021 u/s.143(3) of the Income Tax Act, 1961 and pertains to the assessment year (A.Y.) 2014-15.

2. Facts leading to filing of this appeal briefly stated are that the assessee is a company engaged in the business of trading in commodities and shares. The assessee e-filed its return of income on 29.11.2014 for A.Y. 2014-15 and declared total income of Rs.80,038/-. The return was selected for scrutiny and notices were issued to the assessee. The assessee furnished details sought for by the Assessing Officer (A.O. for short). The A.O. u/s.143(3) of the Act dated 14.12.2016 assessing the total income at Rs.32,67,770/- was passed by making addition of Rs.31,87,728/- as disallowance of interest u/s.36(1)(iii) of the Act.

3. Aggrieved by the said order, the assessee filed an appeal before the Id. CIT(A) who reiterated the A.O.'s finding that the assessee did not have sufficient own fund to provide interest free advance but had remanded it back to A.O. for verification of factual aspect of computation of interest on correct amount of loan which was disputed by the assessee.

4. Though the assessee is in appeal before us on the disallowance of interest expenses u/s.36(1)(iii) of the Act during the hearing of the appeal, the Id. AR contended that the quantum of loan for which the interest was computed was disputed before the Id. CIT(A) and having remanded back by the Id. CIT(A), the A.O. has not yet passed order pursuant to the said order. The Id. AR also stated that the loan advances of Rs.1,64,64,400/- made to 'Shekhawati Agri Trade Pvt. Ltd.' which does not relate to the A.Y. 2014-15 and pertains only to A.Y. 2013-14. It was further contended that there was no new loan advance given in the relevant year and only in the earlier year which the Id. CIT(A) has confirmed it to be from the own funds of the assessee to be granted as loan advance. The Id. AR stated that the Id. CIT(A) has not passed a detailed order in para 7.3.5 of the Id. CIT(A)'s order. The Id. AR also pointed out the mistake apparent on the record where the A.O. has considered the opening debit balance of Rs.1,64,64,400/- in the case of Shekhawati Agri Trade Pvt. Ltd. and opening credit balance of Rs.1,01,00,000/- in case of Shree Satyanandji Tradecom Pvt. Ltd. and alleged that it was not loan advances.

5. The Id. Departmental Representative (Id. DR for short), on the other hand, did not object to restoring the appeal back to the A.O. and states that there was no ambiguity in it as it includes only factual verification.

6. We have heard the rival contentions and perused the material on record. As both the Id. representatives have admittedly agreed to set aside the matter to the A.O. for recomputation of the total loan amount for the purpose of computing the interest for the relevant year under consideration, we hereby direct that the same may be remanded back to the Id. AO to consider the above specified factual aspect. It is needless to mention that

adequate opportunity of being heard shall be provided to the assessee. The grounds of the appeal of the assessee are allowed for statistical purpose.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 28.04.2022.

Sd/-

Sd/-

(Amarjit Singh)
Accountant Member

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 28.04.2022

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar/Sr. Private Secretary)
ITAT, Mumbai