

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.330/PUN/2020

निर्धारण वर्ष / Assessment Year: 2004-05

Sharad Agro Processor Ltd., A/p. Pimpli, Tal. Baramati, Dist. Pune-413102. PAN : AAHCS7721C	Vs.	DCIT, Circle-6, Pune.
Appellant		Respondent

Assessee by : Shri Pramod Shingte

Revenue by : Shri Arvind Desai

Date of hearing : 23.05.2022

Date of pronouncement : 26.05.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee's appeal for assessment year 2004-05 arises against the CIT(A)-7 Pune's order dated 25.09.2018 passed in case no. PN/CIT(A)-7/Cir.6/10224/2011-12 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short the Act.

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance contested during the course of hearing challenges correctness of both the lower authorities' action treating its interest income of Rs.4,05,033/- as

income from “other” sources. The CIT(A) in detailed discussion affirming the assessing officer’s action to this effect reads as follows :-

“6.3 I have carefully considered the facts of the case and law apparent from records. The assessee filed return of income declaring total income of Rs. Nil on 30.10.2004. The AO issued notice u/s. 148 on 14.05.2007. The AO noted that the assessee has shown accrued interest on FDs amounting to Rs. 14,53,476/-. The AO sought explanation of the assessee and assessee submitted that it has received interest of Rs. 4,05,033/- on FDs. The assessee has not started commercial activity and interest earned on salary adjusted towards cost of project. The assessee relied on judicial pronouncements. The AO rejected the claim of the assessee and relying on the decision of the Supreme Court in case of Tuticorin Alkali chemicals & Fertilizers Ltd.(supra) and considered that interest earned on FD on income from other sources and assessed accordingly.

6.4 During the appellate proceedings the appellant reiterated its stand.

6.5 Ostensibly, the appellant has not started any commercial activities. The appellant has issued share capital and receipts were invested in FDRs and earned interest of Rs. 4,05,033/-. The nature of interest earned from FDs is undoubtedly income from other sources relying on the decision of the Supreme Court in case of Tuticorin Alkali chemicals & Fertilizers Ltd.(supra). The contention of the appellant is that in later decision in case of Bokaro Steels Ltd.(supra) has considered the issue and it would reduce the project cost.

6.6 The appellant relied on the decision of the Supreme Court in case of Bokaro Steels Ltd. (supra). In that case it was a going concern which had given contract for construction and given advances and received interest. There it was intrinsically connected with business. In case of appellant the business has not yet commenced, The appellant has parked fund in FDs as no business activity has started. Therefore, the facts of the case are clearly distinguishable. The appellant has not demonstrated that how FDs are intrinsically connected with business and how FDs were further concerned to furtherance of the business. Apparently, the appellant has kept idle fund in FDs as no business activity has started. Therefore, in case of appellant the decision of the Supreme Court in case of Tuticorin Alkali chemicals & Fertilizers Ltd.(supra) will apply and interest from FDs are interest income from other sources.

6.7 The appellant relied on the decision of the ITAT Delhi in case of Shiv Om paper Mills Pvt. Ltd.(supra). The case does not support the case of the appellant as in that case deposit in the bank account were

used to provide FFD facilities. The appellant has not demonstrated intrinsically use of FDR for the creation of capital asset to reduce the cost. Therefore, the case law relied upon by the appellant does not support the case of the appellant.

6.8 In view of the above, action of the AO in assessing interest from FDR of Rs. 4,05,033/- relying on the decision of the Supreme Court in case of Tuticorin Alkali chemicals & Fertilizers Ltd.(supra) is upheld and ground No. 2 of the appeal is dismissed.”

3. Learned counsel could hardly rebut the clinching finding recorded in the CIT(A)'s order that the assessee had failed to prove the intrinsic nexus between the FDRs vis-à-vis capital assets purchased or business activity; as the case may be. I thus hold that both the lower authorities have rightly gone by hon'ble apex court landmark decision in Tuticorin Alkali Chemicals & Fertilizers Ltd. (supra) whilst assessing the impugned interest income under the residuary head of income from other sources. The impugned addition is upheld in principle therefore.

The fact also remains that both the learned lower authorities have indeed failed to examine the issue of assessee's expenditure incurred "wholly" and "exclusively" for the purpose of earning the foregoing interest income. This case files suggests that the Assessing Officer has nowhere undertaken such an exercise in his computation in tune with section 57(iii) of the Act. I therefore deem it appropriate to restore the instant computation issue back to

him with liberty to the assessee to file on record all necessary details as per law. Ordered accordingly.

4. This assessee's appeal is partly allowed for statistical purposes in above terms.

Order pronounced on this 26th day of May, 2022.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 26th May, 2022.

Sujeet (DOC)

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-7, Pune
4. The Pr. CIT-6, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.