

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri B.R. Baskaran (AM) & Shri Kuldip Singh (JM)

I.T.A. No. 5857/Mum/2019 (A.Y. 2014-15)

Synergy Appliances Pvt. Ltd. 171, C-Wing, Mittal Court Nariman Point Mumbai-400 021. PAN : AAACR1840E (Appellant)	Vs.	DCIT-3(3)(2) Room No. 609 6 th Floor Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	None
Department by	Shri Kanhiya Lal Kanak
Date of Hearing	17.05.2022
Date of Pronouncement	21.06.2022

ORDER

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 14.6.2019 passed by learned CIT(A) and it relates to A.Y. 2014-15.

2. The assessee is aggrieved by the decision of learned CIT(A) in confirming the disallowance of interest expenditure of Rs. 2.55 crore made by the Assessing Officer under section 36(1)(iii) of the I.T. Act.

3. None appeared on behalf of the assessee even though notice of hearing was sent to the assessee on several occasions. Hence, we proceed to dispose of the appeal ex-parte, without presence of the assessee.

4. The assessee is engaged in the business of making investment in shares. The Assessing Officer noticed that the assessee has incurred interest expenditure of Rs. 2.55 crore on the loans taken by it. He also noticed that the assessee had made investment to the tune of Rs. 276.97 crore. Further, the AO also noticed that the assessee was having negative reserve balances. Accordingly, he noticed that the entire investments have been made out of

current liabilities which stood at Rs. 287.96 crore. Accordingly, the Assessing Officer took the view that the loan funds have been fully utilized for making investment. Accordingly he took the view that the interest expenditure is not allowable as deduction and accordingly, disallowed interest claim of Rs. 2.55 crore. The same was confirmed by learned CIT(A).

5. We have heard learned Departmental Representative and perused the record. We noticed that the assessee has stated before the tax authorities that the funds have been borrowed by it for investing in shares which is the business of the assessee. We also noticed that that the Assessing Officer also recorded in page No. 4 of the assessment order that the assessee company is engaged in the business of investment in shares. We noticed that learned CIT(A) has dismissed the appeal of the assessee by following certain decisions, which dealt with commercial expediency in giving interest free advances to sister concerns. In the instant case, available facts show that the assessee has not advanced any funds to its sister concern. It has only utilized borrowed funds for making investment in shares which is claimed to be business of the assessee. Since learned CIT(A) has proceeded to decide the issue on inappropriate facts, we are of the view that this issue requires fresh examination at his end. Accordingly, we set aside the order passed by learned CIT(A) on this issue and restore the same to his file for examining it afresh by properly considering the facts surrounding the issue. After affording adequate opportunity of being heard to the assessee, the Learned CIT(A) may take appropriate decision in accordance with law.

6. In the result appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21.06.2022.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 21/06/2022

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

PS