

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Shri Waseem Ahmed, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1122 & 1123/Ahd/2018
Assessment Years 2013-14 2014-15**

Kailash Darshan Housing Development (Gujrat) Pvt. Ltd. 2 nd Floor, Sarthik Avenue Nr. Fun Republic, Satellite, Ahmedabad- 380015 PAN: AACCK6422D (Appellant)	Vs	The Commissioner of Income Tax, (Central), Ahmeabad (Respondent)
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**Appellant by : Ms. Nupur Shah, A.R.
Respondent by : Shri James Kurian, CIT/D.R.**

Date of hearing : 18-07-2022
Date of pronouncement : 27-07-2022

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

These two appeals have been filed by the Assessee as against the separate orders dated 28.03.2018 passed under section 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the Commissioner of Income Tax (Central), Ahmedabad relating to the Assessment Years (A.Ys) 2013-14 & 2014-15 respectively.

2. Appellant cases were reopened as the assessment order passed by the Assessing Officer are erroneous and pre judicial to the interest of Revenue on the following issues:

- (a) Non-examining the applicability of section 14A r.w. Rule 8D
- (b) Non verification of unsecured loans
- (c) Non verification of losses in F & O Trading Transactions (only for Assessment Year 2014-15).

3. Ld. Counsel Ms. Nupur Shah appearing for the assessee submitted that during the course of original assessment proceedings u/s. 143(3) and in reply to the notice dated 30.01.2016 issued u/s. 142(1), the assessee filed all details namely ledger account of interest income, ledger account of capital account from partnership firm as relating to Section 14A r.w. Rule 8D. Similarly, the documents relating to the unsecured loans summary with copy of the Income Tax Returns, confirmation from the parties, bank statement of lenders were furnished before the Assessing Officer as regarding the unsecured loans. Similarly, ledger account of broker and contracts note were furnished before the Assessing Officer relating to F & O loss and loss in currency transaction vide letter dated 16.02.2016 which are available at Page No. 79, 101 to 115 of Paper Book-I filed by the Assessee. However, this explanation was not considered by the Ld. Pr.CIT and directed the Assessing Officer to revise the assessment order. As against the revised order passed u/s. 143(3) r.w.s. 263, the assessee filed further appeal before the Ld. CIT(A)-11, Ahmedabad. The CIT(A) vide order dated 21.05.2019 for the Assessment Year 2013-14 and order dated 13.05.2019 for

the Assessment Year 2014-15 deleted the additions made by the Assessing Officer pursuant to the revision orders passed by the PCIT U/s. 263 of the Act. On the basis of above, the ld. Counsel submitted that the original assessment orders passed by the Assessing Officer is neither erroneous nor prejudicial to the interest of Revenue. Therefore, the revision proceedings initiated by Ld. PCIT u/s. 263 of the Act are liable to be quashed.

4. Per contra, the ld. D.R. appearing for the Revenue submitted that for the Assessment Year 2013-14, the Revenue filed further appeal before this Hon'ble Tribunal in ITA No. 1277/Ahd/2019 as against the order passed by the Ld. CIT(A). However, the same was dismissed on Low Tax Effect vide order dated 14.08.2019. However, no details are being available relating to the Assessment Year 2014-15. However, the ld. D.R. pleaded to uphold the Revision orders passed by the ld. PCIT.

5. We have given out thoughtful consideration and perused the materials available on record including the Paper Books filed by the assessee and the orders passed by the CIT(A) for the Assessment Year 2013-14 and 2014-15, wherein he deleted the additions made on account of Section 14A, unsecured loans and losses in F & O Trading Transactions. As rightly pleaded by the Ld. Counsel for the assessee that necessary details has been field by the assessee by letter dated 16.02.2016 before the Assessing Officer explaining its cases. Thus, the revision proceedings initiated by the Ld. PCIT is against the provisions of Section 263 and Explanation (2)(a)(b) of

the Act and therefore the Revision orders are unjustified in the eye of law. Further the same disallowances were being deleted by the ld. CIT(A) in his appellate orders after considering on merits with relevant case laws for both the Assessment Year 2013-14 and 2014-15. Furthermore, the Department appeal for the Assessment Year 2013-14 in ITA No. 1277/Ahd/2019 is also dismissed on Low Tax Effect. For the above reasons, we hereby quash the Revision orders passed/s. 263 by the Ld. PCIT and allow the Grounds raised by the assessee.

6. In the result, both the appeals filed by the Assessee are hereby allowed.

Order pronounced in the open court on 27-07-2022

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 27/07/2022

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद