

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER
&
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.133/Mum/2021
(Assessment Year :2012-13)**

M/s. Meera Metal Industries Mahavir Metal Industries Opp. R.K. Studio Sion Trombay Road Chembur – 400 071	Vs.	The ITO 27(2)(3) Vashi, Navi Mumbai-400 703
PAN/GIR No.AAGFM0767L		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri Rajiv Singh
Date of Hearing	26/07/2022
Date of Pronouncement	26/07/2022

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.133/Mum/2021 for A.Y2012-13 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-25, Mumbai in appeal No.CIT(A)-25/IT-397/2015-16 dated 03/06/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 30/03/2015 by the Id. Income Tax Officer - 27(2)(3), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the disallowance of interest made in the

sum of Rs.1,65,662/- in respect of interest free advances given by the assessee to certain concerns.

3. None appeared on behalf of the assessee. The paper book of the assessee is already on record. The assessee has sought adjournment today at the time of hearing. We find that the issue is a covered issue and since all the materials relevant for the purpose of adjudication of the appeal are already on record, we proceed to decline the adjournment request of the assessee and dispose of the appeal on hearing the Id. DR and based on material available on record.

3.1. The assessee is a partnership firm engaged in the business of manufacturing of kitchen and cookware items. The Id. AO observed that the assessee had taken loans and had suffered interest at an average rate of 15% per annum. The assessee had advanced interest free loans to Shri Zaverchand L Dedia amounting to Rs.6,04,416/- and M/s. Vision Express amounting to Rs.5,00,000/-. The Id. AO proportionately made disallowance of interest @15% of these interest free advances and disallowed the sum of Rs.1,65,662/- in the assessment. Before the Id. CIT(A) we find that assessee had duly furnished the details of interest free funds available with it in the sum of Rs.31,71,205/-. The assessee also furnished the entire audited balance sheet before the Id. CIT(A) to drive home the point that the firm had sufficient interest free funds in its kitty to make interest free advances to certain parties. We have gone through the audited balance sheet of the assessee and the submissions made by the assessee before the Id. CIT(A) which remain uncontroverted before us by the Revenue. We find that assessee is having sufficient interest free funds to make interest free advances to the aforesaid two parties, hence, by placing reliance on the decision of the Hon'ble

Jurisdictional High Court in the case of Reliance Power Utilities Ltd., reported in 313 ITR 340 and HDFC Bank Ltd reported in 366 ITR 505. We direct the Id. AO to delete the disallowance of interest u/s.36(1)(iii) made in the instant case. Accordingly, the grounds raised by the assessee are allowed.

4. In the result, appeal of the assessee is allowed.

Order pronounced in open Court on 26/07/2022

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 26/07/2022
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

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