

। आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER

&

SHRI MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 414/Kol/2020

Assessment Year: 2013-14

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| Manindra Mohan Mazumdar 18, Radhanagar Road Burnpur Dist:- Paschim Bardhaman Pin - 713325 PAN : AELPM0074R | Vs | Assistant Commissioner (I.T.), Circle-1, Asansol |
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| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/ (Respondent) |
|-------------------------------|--|---------------------------------|

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| Assessee by : | None |
| Revenue by : | Shri Manish Kanojia, CIT |

सुनवाई की तारीख/Date of Hearing : 19/09/2022

घोषणा की तारीख/Date of Pronouncement : 31/10/2022

आदेश/ORDER

PER SHRI MANISH BORAD, ACCOUNTANT MEMBER:

The present appeal is directed at the instance of the assessee against the order of the learned Commissioner of Income Tax (Appeals) - Asansol (hereinafter the "Id. CIT(A)") dt. 13/01/2020, passed u/s 250 of the Income Tax Act, 1961 ("the Act"), for Assessment Year 2013-14.

2. These assessee's appeal is time barred by 99 days and the petition seeking condonation of delay has been filed stating that the delay in filing of this appeal was attributable to the restrictions imposed due to Covid-19 pandemic. We have heard both the sides and find that there is reasonable cause for delay in filing of the appeal on time. Hence we condone the delay and admit the appeal for hearing.

3. Only grievance of the assessee in this appeal is that the Id. CIT(A) has erred in confirming the addition of proportionate disallowance of interest u/s 14A of the Act at Rs.3,86,942/- without considering the decision of the Co-ordinate Bench of this Hon'ble Tribunal in the assessee's own case in ITA No. 2201/Kol/2014, order dt. 23/05/2018. When the case was called for hearing none appeared in person or through its authorised representative. The Id. D/R vehemently argued supporting the order of both the lower authorities.

3. We have heard the ld. D/R and perused the record.
4. The only issue under challenge is disallowance of interest expenditure of Rs.3,86,942/- made by the Assessing Officer u/s 14A of the Act. The assessee has contented that the case of the assessee is squarely covered by the decision of the Tribunal in the assessee's own case for Assessment Year 2009-10 in ITA No. 2201/Kol/2014 order dt. 23/05/2018. Perusal of the order of this Tribunal we find that there was a similar issue of disallowance of interest of expenditure of Rs.1,71,253/- under Rule 8D(2)(ii) of the Income Tax Rules, 1962 ("Rules"). However, since against the interest expenditure of Rs.3,14,456/-, there was interest income of Rs.55,68,925/- and also since there was a net interest income of Rs.52,54,469/-, the disallowance made for interest expenditure u/s 14A of the Act was deleted. However, examining the facts of the instant case, in the light of the above case, we find that the assessee has miserably failed to file the details of interest debited during the year and interest credited during the year and also no details is filed to show that at the end of the year, the assessee had net interest income. Even before the ld. CIT(A), the assessee cited the same decision of this Tribunal and the ld. CIT(A) has duly considered the same but since for the year under appeal i.e., Assessment Year 2013-14, appellant has not been able to show that after setting off of the interest income the interest income has resulted into net interest income. Before us also, except filing the copy of the decision of the Tribunal dt. 23/05/2018 (supra), no other evidence has been put forth. Under these circumstances, we find it difficult to grant any relief to the assessee. We, therefore, uphold the finding of the ld. CIT(A) and dismiss the sole ground raised by the assessee.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the Court on 31st October, 2022 at Kolkata.

Sd/-

**(SANJAY GARG)
JUDICIAL MEMBER**

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata