

**IN THE INCOME TAX APPELLATE TRIBUNAL “H” BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, AM AND  
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 824/Mum/2022  
(Assessment Year: 2014-15)

Sanjay Subhashchand Gupta 301 & 401, Atul Baug, Near Saraswat Bank, Kalyan, Thane-421 301	Vs.	Dy. CIT, Central Circle-4, Thane
PAN/GIR No. AAXPG 1576 G		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Appellant by</b>	:	Shri Satyaprakash Singh
<b>Respondent by</b>	:	Smt. Usha Gaikwad
<b>Date of Hearing</b>	:	17.11.2022
<b>Date of Pronouncement</b>	:	21.11.2022

**ORDER**

**Per Kavitha Rajagopal, J. M.:**

This appeal has been filed by the assessee as against the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), Pune-11, passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2014-15.

2. The grounds of appeal filed by the assessee are as under:

1. *The order dated 08/03/2022 bearing No. ITBA/APL/S/250/2021-22/1040470840[1] by the CTT[A]-11, Pune is arbitrary, against natural justice, unlawful, against the provisions of Income Tax Act, 1961, invalid and therefore liable to be quashed.*

2. *On facts and circumstances of the case and in law, the Hon. C.I.T.(A) has erred in restricting the amount of addition in respect of deemed dividend under section 222Je of Income Tax Act, 1961.*

3. *On facts and circumstances of the case and in law, the Hon. C.I.T.(A) has erred in confirming the addition of Rs.47,57,354/- on account of disallowance of interest ignoring the fact that, money borrowed by the Appellant were utilized for the purpose of business carried by the Appellant*

3. The brief facts are that the assessee is engaged in the business of financial service sector and logistics in the name of M/s. Krishna Logistics and was also a salaried employee of M/s. Konark Infrastructure Limited. The assessee filed his return of income dated 25.11.2014, declaring total income of Rs.69,20,660/-. The assessee's case was selected for limited scrutiny and assessment order u/s.143(3) was passed dated 30.12.2016, determining the total income of Rs.1,68,84,582/-, wherein the Assessing Officer ('A.O.' for short) made an addition of Rs.99,64,522/-, which amounts to deemed dividend of Rs.52,07,168/- u/s.2(22)(e) of the Act and Rs.47,57,354/- as disallowance towards interest paid.

4. Aggrieved by this, the assessee was in appeal before the Id. CIT(A), who confirmed the said addition made by the A.O.

5. The assessee is in appeal before us.

6. The Id. Authorised Representative (A.R. for short) for the assessee contended that the impugned amounts were taken for the purpose of business activities of the company and the advance of Rs.14,44,730/- from M/s. Rustogi Logistic Pvt. Ltd. and Rs.3,35,38,660/- from M/s. Rustogi Projects Private Limited and the same was received as business advances. The Id. AR further stated that the assessee has entered into MOUs with the above mentioned companies and stated that these advances was given to the assessee for purchase of properties. The Id. AR submitted that the assessee's case will not

be covered under the provisions of section 2(22)(e) of the Act and prayed for filing of the additional evidences, pertaining to the claim of the assessee. The Id. AR also contended that the assessee may be given one more opportunity to file evidence, pertaining to the addition made on account of disallowance of interest, which according to the assessee was utilized for the purpose of business and that in subsequent years it has also been repaid to the creditors.

7. The Id. Departmental Representative (Id. DR for short), on the other hand, controverted the assessee's contention that these funds were utilized for business purpose and not for purchase of property and vehemently opposed for admission of additional evidences which is filed during the proceeding of the second appellate stage.

8. Having heard the rival submission and perused the materials on record. We deem it fit to provide the assessee with one last opportunity to furnish additional evidences before the A.O. to substantiate the claim of the assessee on the principles of natural justice. In this regard, we remand both these issues to the file of the A.O. for adjudicating these issues in the light of the evidences that are proposed to be filed by the assessee.

9. In the result, this appeal is allowed for statistical purpose.

*Order pronounced in the open court on 21.11.2022.*

Sd/-

(Om Prakash Kant)  
Accountant Member

Mumbai; Dated : 21.11.2022

Sd/-

(Kavitha Rajagopal)  
Judicial Member

Roshani, Sr. PS

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai