

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.2784/Ahd/2017  
Assessment Year: 2014-15**

Ardor Chemicals Pvt. Ltd.,  
A/2, New Sanjay Society,  
Panchwati 2<sup>nd</sup> Lane,  
Ambawadi,  
Ahmedabad.  
[PAN – AAJCA 2455 M]  
(Appellant)

vs. Income Tax Officer,  
Ward – 1(1)(3), Ahmedabad.

(Respondent)

Assessee by : Shri Mohit Balani, CA  
Respondent by : Shri Vijay Kumar Jaiswal, CIT (DR) &  
Shri Atul Pandey, Sr. DR

Date of hearing : 10.11.2022  
Date of pronouncement : 23.11.2022

**ORDER**

This appeal is filed by the Assessee against the order dated 29.09.2017 passed by the CIT(A)-1 Ahmedabad for the Assessment Year 2014-15.

2. The assessee has raised the following grounds of appeal :-

- “1 *The Id. Commissioner of Income Tax (Appeals) has grossly erred in law and on facts of the case in confirming the action of Id. AO in disallowing the interest of Rs.44,10,457/- u/s.36(1)(iii) of the Act on the ground that no business activities were carried out by the appellant.*
2. *Both the Id. Authorities have passed the orders without properly appreciating the fact and that they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order.*
3. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in levying interest u/s.234A/B/C of the Act.*

4. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in initiating penalty u/s. 271(1)(c) of the Act”*

3. The assessee company filed return of income on 27.09.2014 declaring total loss of (-) Rs.36,972/-. The return was processed under Section 143(1) of the Income Tax Act, 1961 accepting the returned income. The case was selected for scrutiny and notice under Section 142(2) of the Act as well as notice under Section 142(1) were issued to the assessee. The assessee filed necessary details during the course of assessment proceedings. After taking cognisance of the submissions and details, the Assessing Officer made disallowance under Section 14A read with Rule 8D amounting to Rs.44,41,425/- under Section 36(1)(iii) of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted that when the addition under Section 14A of the Act is made, the Assessing Officer has not taken cognisance that there was no exempt dividend income and in such case Section 14A of the Act will not be applicable. As regards addition under Section 36(1)(iii) of the Act, the Id. AR submitted that during the year under consideration business income could not have been earned on account of non-availability of business or lean period. In fact, the Assessing Officer has also mentioned that no business activity was going on during the present A.Y. It is settled law that even if the business during the year under consideration on account of lean period or non-availability of business order or contract work etc., it is case of “lull of business” and not the case of “business going out”. It is not necessary that a business to be in existence should work all the time. The Id. AR further submitted that the Assessing Officer has not considered evidence and supporting documents placed before the Assessing Officer during the assessment proceedings. Ld. AR further submitted that the assessee paid professional tax when the assessee carried out business and hence disallowance under Section 36(1)(iii) of the Act does not arise.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that though the business was not conducted during the present A.Y., for the purpose of smooth running of the business the assessee has borrowed the amount which was reflected duly in the bank account (Profit & Loss account and Balance Sheet of the assessee company). The assessee has also given details related to borrowings and simply on the ground of no activities was related to business, hence the borrowing should not be allowed cannot be the sole ground for making disallowance under Section 36(1)(iii) of the Act. Therefore, ground nos.1 & 2 are allowed.

8. As regards ground nos.3 & 4, the same are consequential, hence not adjudicated at this juncture.

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

Order pronounced in the open Court on this 23<sup>rd</sup> day of November, 2022.

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 23<sup>rd</sup> day of November, 2022**

**PBN/\***

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad