

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, AHMEDABAD**

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

**ITA No.533/Ahd/2020**

**Asstt.Year : 2014-15**

Chetankumar Raojibhai Patel Amba Prabhu, Vishram Nagar Saiyad Vasna Road Vadodara 390 015 PAN : ACUPP 3382 N	Vs	DCIT, Cir.1(2) Vadodara.
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(Applicant)	(Responent)
Assessee by : Shri Parimalsingh B. Parmar, AR	
Revenue by : Shri Mukesh Thakwani, DR	

सुनवाई की तारीख/Date of Hearing : 05/09/2022

घोषणा की तारीख /Date of Pronouncement: 02/12/2022

**आदेश/O R D E R**

The present appeal has been filed by the assessee against order passed by the Commissioner of Income Tax(Appeals)-5, Vadodara in short referred to as Id.CIT(A)) under section 250(6) of the Income Tax Act, 1961 ("the Act" for short), dated 14.09.2020 pertaining to Asst.Year 2014-15.

2. Sole issue in the present appeal relates to disallowance of interest expenditure under section 36(1)(iii) of the Act.

3. As transpires from order of the authorities below, the assessee is engaged in the business of trading in shares and securities. The AO found that the assessee had claimed interest expenditure of Rs.42,70,782/- and closing balance of interest free advances were of Rs.1,17,61,391/-/ The AO took a view that interest bearing funds

have been diverted for making interest free advance. Accordingly, he made disallowance of interest pertaining to the said advances computed @12% of the interest free advances amounting to Rs.14,11,367/-. The same was confirmed by the Id.CIT(A).

4. Before us, sole contention raised by the ld.counsel for the assessee was that it had sufficient interest free funds at its disposal in the form of capital of Rs.3,15,82,005/- for making investment in interest free advances of Rs.17,61,391/-. As evidence, he drew our attention to the audited accounts of the assessee for the impugned year placed before us at PB Page No.13 to 19, more particularly, PB-13 containing balance sheet of the assessee reflecting the above amounts. He pointed out that interest free funds available with the assessee was more than the interest bearing funds, and the interest free funds were almost 2.69 times more than the advances. He contended that the law in this regard had been settled by the Hon'ble Apex Court in the case of CIT Vs. Reliance Industries Ltd. 410 ITR 466 (SC) that presumption in such cases was that interest free advances had been made out of interest free funds, warranting no disallowance of interest under section 36(1)(vii) of the Act.

5. The ld.DR was unable to controvert the factual contentions made by the ld.counsel for the assessee before us, nor was he able to distinguish the decision relied upon by the Ld. Counsel for the assessee before us of the Hon'ble Apex Court.

Since the assessee has demonstrated the availability of sufficient own funds for the purpose of making interest free funds, the issue, we find, is squarely covered by the decision of the Hon'ble Apex Court in the case of Reliance Industries Ltd. (supra), following which, we hold that no disallowance under section 36(1)(vii) is

warranted in the facts and circumstances of the case. Accordingly, the disallowance of interest u/s 36(1)(iii) of the Act of Rs.14,11,367/- is hereby directed to be deleted.

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

**Order pronounced in the Court on 2<sup>nd</sup> December, 2022 at Ahmedabad.**

**Sd/-  
(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 02/12/2022

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