

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.2313/M/2022  
Assessment Year: 2015-16**

Dy. Commissioner of Income Tax-5(3)(1), Room No.573, Aayakar Bhavan, Mumbai - 400020	Vs.	M/s. Sanghavi Jewel Pvt. Ltd., 402, Mehta Mahal, Charni Road, Mumbai – 400 004 <b>PAN: AAICS7624R</b>
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri Rameshwar P. Meena, D.R.

Date of Hearing : 15 . 12 . 2022  
Date of Pronouncement : 20 . 12 . 2022

**O R D E R**

**Per : Kuldip Singh, Judicial Member:**

The appellant, Dy. Commissioner of Income Tax-5(3)(1), Mumbai (hereinafter referred to as ‘the Revenue’) by filing the present appeal, sought to set aside the impugned order dated 03.06.2022 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)] qua the assessment year 2015-16 on the grounds inter-alia that :-

*“Ground No.1. Whether in the fact and in the circumstances of the case, the Ld. CIT(A) order is in consonance vis-à-vis. the ground of appeal raised by the assessee.*

*Ground No.2. Whether in the fact and in the circumstances of the case, the Ld. CIT(A) order suffers from infirmity in as much as the conclusion drawn from para 64 onwards on the ground of appeal raised by the assessee which is found be irrelevant and does not match vis-à-vis the order passed u/s 143(3) by the assessing officer for assessment year in question.*

*Ground No. 3. Whether in the fact and in the circumstances of the case, the Ld. CIT(A) was justified to held the interest income earned to exclude from the eligible profits relevant for quantifying admissible deduction u/s 10AA of the Act”*

2. Briefly stated facts necessary for adjudication of the issues at hand are: the assessee is into the business of manufacturing and exporting of studded jewellery having manufacturing unit at plot No.GJ-01, Seepz++, Seepz, Andheri (East), Mumbai – 400 096 and the assessee has claimed deduction under section 10AA of the Income Tax Act,1961 (for short ‘the Act’) for the aforesaid period. During the assessment proceedings the Assessing Officer (AO) noticed that during the year under consideration the assessee earned interest to the tune of Rs.1.12 crores and unrealized export sales of Rs.6,00,88,279/- has been removed from turnover of the applicant for the purpose of calculating eligible profits under section 10AA of the Act. Declining the contentions raised by the assessee the AO proceeded to frame the assessment under section 143(3) of the Act by denying the deductions claimed under section 10AA of the Act.

3. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has partly allowed the same. Feeling aggrieved

the Revenue has come up before the Tribunal by way of filing present appeal.

4. We have heard the Ld. Authorised Representatives of the parties to the appeal, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and law applicable thereto.

5. The Ld. D.R. for the Revenue challenging the impugned order passed by the Ld. CIT(A) relied upon the order passed by the AO.

6. However, on the other hand, the Ld. A.R. for the assessee relied upon the order passed by the Ld. CIT(A) and contended that this issue has already been decided by the Tribunal in assessee's own case for the A.Y. 2011-12 in ITA No.5672/M/2016.

7. We have perused the order passed by the Ld. CIT(A) who has decided the issue in favour of the assessee by relying upon the order passed by the Tribunal in assessee's own case for A.Y. 2011-12 by returning following findings:

*"6.3 The Appellant is a company engaged in the business of manufacture and export of studded jewellery. The appellant filed its return of income electronically for the year under consideration declaring total income at Rs. 2,59,11,210/- on 23/11/2015. The case was selected for scrutiny under CASS. Subsequently, notice u/s 143(2) and 142(1) was issued and duly served upon the appellant. the AR of the appellant responded to the notices; attended and filed written submissions. pertaining to the case was submitted by him.*

*6.4 Since the AO on the direction of the ITAT to examine the issue of interest on fixed deposits has stated that: -*

*“Accordingly, vide assessment order dated 31.12.2019 passed u/s. 143(3) r.w.s. 254 giving effect to the aforesaid ITAT order, the AO has included interest income earned on fixed deposits placed with the bank in eligible profits of the business for determining deduction u/s. 10AA and deduction u/s. 10AA is granted accordingly. A copy of the said order is submitted vide Annexure "A" forming part of our letter dated 16.03.2020. However, for the sake of easy reference, we once again enclose herewith a copy each of the following:*

*(i) Computation of Total Income for the year ended 31.03.2011 [ Annexure "E"].*

*Note: On a perusal, it will be observed that profits of the business before deduction u/s. 10AA was Rs. 3,96,16,539/- which includes interest on fixed deposits of Rs. 80,16,276- Said were further increased by the disallowance u/s. 40(a)(ia) of Rs.16,18,327/- made in assessing the income us 143(3) vide assessment Order dated 12.03.2015.*

*(ii) Order of the Hon. ITAT, "G" Bench, Mumbai dated 11.07.2018 in appellant's own case for the assessment year 2011-12 (ITA Na 5672/Mum/2016). [Annexure "F"] (Internal Pg. 6-8, Para 8)*

*(iii) Assessment order dated 31.12.2019 passed u/s. 143(3) r.w.s. 254 giving effect to the aforesaid ITAT order for the assessment year 2011-12 [Annexure "G"]"*

*Hence, the AO is directed to exclude only the net interest of Rs.10,82,807/- from eligible profits for claim of deduction u/s 10AA for AY 2015-16 as well. Following the same logic as contained in the ITAT order in the case of the appellant for AY 2011-12; interest on security deposit for obtaining electricity connection and interest on VAT refund also.”*

8. Since the issue in question has been decided by the Ld. CIT(A) by following the earlier year's order of the Tribunal passed in assessee's own case and this fact has not been controverted by the Ld. D.R. for the Revenue by distinguishing the facts, the interest income of the assessee has been rightly directed to be

excluded from an eligible profits for claim of deduction under section 10AA of the Act for the year under consideration. So finding no illegality or perversity in the impugned order passed by the Ld. CIT(A) the appeal filed by the Revenue is hereby dismissed.

**Order pronounced in the open court on 20.12.2022.**

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 20.12.2022.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.