

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"C(SMC)" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 159/Kol/2022
Assessment Year: 2012-13

Sunbeam Vanijya Pvt. Ltd. 21A, Shakespeare Sarani 3 rd Floor Kolkata - 700017 [PAN : AAKCS1284P]	Vs	D.C.I.T., Central Circle -1(1), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Miraj D. Shah, A.R.
Revenue by :	Smt. Ranu Biswas, Addl. CIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 09/02/2023
घोषणा की तारीख /Date of Pronouncement: 20/02/2023

आदेश/ORDER

PER DR. 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)-20, Kolkata, (hereinafter the "ld. CIT(A)") dt. 11/02/2022, passed u/s 250 of the Income Tax Act, 1961 ("the Act"), for Assessment Year 2012-13.

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

"1) For that on the facts and circumstances of the case, Ld. CIT (Appeals) was grossly erred in confirming the disallowance of interest paid Rs. 11,74,989/- made by Assessing Officer in the assessment completed U/s 143(3) of the Act.

2) For that on the facts and circumstances of the case, Ld. CIT (Appeals) as well as Ld. A.O. failed to bring on record any correlation between unsecured loans taken and its utilization in giving interest free loans and advances to justify the disallowance of interest paid on unsecured loan Rs. 11,74,989/-.

3) For that on the facts and circumstances of the case Ld. CIT (Appeals) failed to appreciate that there were apparent utilization of borrowing for bringing into existence the current assets of business being inventory and debtors and there were sufficient interest free fund available for giving

interest free advances and thus disallowance & interest paid was unwarranted on the facts of the case.

4) For that on the facts and circumstances of the case Id. CIT (Appeals) ought to have accepted the submission of assessee and should have allowed the relief holding the disallowance of Rs. 11,74,989/- as unjustified.

5) We crave leave to add, alter, amend, modify or withdraw any grounds of appeal on or before the date of hearing."

3. From perusal of the above grounds we note that the only effective issue raised is disallowance of interest paid of Rs.11,74,989/-

4. Brief facts relating to this issue are that the assessee which is a private limited company engaged in manufacturing of jute goods. It declared income of Rs. 13,31,340/- under the e-return filed on 24/09/2012. The case being selected for scrutiny through CASS followed by serving of notice u/s 143(2) & 142(1) of the Act. The Id. Assessing Officer during the course of assessment proceedings noticed that the assessee has given interest free loans and advance of Rs. 8,92,75,354/- and also observed that the assessee has paid interest of Rs.11,74,986/- on the unsecured loans taken. The Id. Assessing Officer after considering the submissions of the assessee came to a conclusion that since borrowed funds are less than advanced funds by the parties, interest expenditure of Rs.11,74,986/- deserves to be disallowed.

4.1. Aggrieved the assessee carried the matter in appeal before the Id. CIT(A) but failed to succeed.

5. Further aggrieved, the assessee is in appeal before this Tribunal.

6. The Id. Counsel for the assessee referring to the written submission filed before the Id. CIT(A) as well as audited financial statements for financial year 2011-12, stated that the assessee had a sufficient interest free

funds to the tune of Rs.25.98 Crores at the year-end which was sufficient to apply for giving interest free loans and advances.

On the other hand, the Id. D/R supported the orders of the lower authorities.

7. We have heard rival contentions and perused the records placed before us. Disallowance of interest expenditure of Rs.11,74,989/- is in dispute before us. The Id Assessing Officer made the disallowance alleging that on one hand the assessee has given interest free advances of Rs.8,92,75,354/- and on the other hand, it is claiming interest expenditure on unsecured loans taken. Before us, the Id. Counsel for the assessee stated that interest free funds were available and to justify the same filed the following details:-

<i>"Interest Free Funds in form of:</i>	<u>31.03.2012</u>	<u>31.03.2011</u>
<i>Share Capital & Reserves & Surplus</i>	26,26,873	14,90,782
<i>Deferred Tax Liabilities</i>	2,44,199	1,28,902
<i>Long term Provisions</i>	88,11,334	52,26,117
<i>Trade Payables</i>	21,05,51,623	17,69,52,554
<i>Other Current Liabilities</i>	3,76,37,074	1,57,23,523
<i>(Except Car loan)</i>	-----	-----
<i>Interest free fund available</i>	25,98,71,103	19,95,21,878"

8.1. From perusal of the above details, we notice that major operation of the assessee, claim of interest free funds is the trade payable of Rs.21.05 Crores. It is stated before us that the assessee made purchases from various vendors and sold the goods. The sale consideration so received was not paid in total to the trade payables and the funds were available with the assessee. Out of such funds received from sale of goods, the interest free advance of Rs.8.93 Crores (app.) has been given. Now the fact that sale consideration has been received but payments have not been made to the sundry

creditors, cannot be questioned by the revenue authorities and the same depends on the credit limit available for making payments to the sundry creditors and the time of receiving amount from sale of goods and one cannot ignore the situation if sales are realised in much less period and assessee is left with sufficient time to pay the sundry creditors and during this gap, assessee is possessed with surplus funds, which can be used for other business purposes. Since details have been placed before us, which are part of the audited financial statements and remain uncontroverted, we are inclined to hold that the assessee has sufficient interest free funds available to give interest free funds of Rs.8.93 Crores and, therefore, the Id. CIT(A) was not justified in confirming the disallowance of interest expenditure of Rs.11,74,989/-. We, thus reverse the findings of the Id. CIT(A) and allow all the grounds raised by the assessee.

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

Order pronounced in the Court on 20th February, 2023 at Kolkata.

Sd/-

**(RAJPAL YADAV)
VICE-PRESIDENT**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 20/02/2023

**SC S.P.*

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 , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata