

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F", MUMBAI  
BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER  
**ITA No. 1399/Mum/2018 (A.Y. 2014-15)**

**M/s Varsity Education Management Pvt. Ltd.**

6A/1, Court Chambers,  
35, New Marine Lines,  
Mumbai-400020.

**PAN: AADCV6100E**

..... Appellant

Vs.

DCIT-1(3)(2),  
Mumbai.

..... Respondent

Appellant by	:	None
Respondent by	:	Smt. Vranda U Matkarni, Sr. DR
Date of hearing	:	10/10/2022
Date of pronouncement	:	05/01/2023

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by assessee is directed against the order of Commissioner of Income Tax (Appeals)-3, (for short 'CIT(A)'), Mumbai dated 25.10.2017 under section 143(3) of the Income Tax Act, 1961 (for short 'the Act') for A.Y. 2014-15.

The assessee has raised the following grounds of appeal:

1. The Learned Commissioner of Income-tax (Appeals) erred in confirming the disallowance made by AO of Rs. 1,37,37,390/- on account of advance given to M/s Sharp Edutech Pvt Ltd for business purposes by stating that the

appellant failed to provide the documentary evidence without appreciating the fact that the company has been wound up and appellant was not having any recourse to extract the details from the company and the advances were for business and thus allowable as business expenditure.

2. The Ld. Commissioner of Income tax (Appeals) erred in confirming the addition made by AO of Rs. 9,45,576/- on account of debit balances written off pertaining to various parties without appreciating the submissions made in this regard that the amounts for each party is small and all the relevant details have been filed.

3. The Ld. Commissioner of Income tax (Appeals) erred in confirming the disallowance made by AO of Rs. 6,94,454/- in respect of miscellaneous expenditure shown under advances written off without considering the fact that the expenditure was incurred wholly and exclusively for business purposes and thus allowable as business expenditure.

4. The Appellant craves leave to add, amend, alter or delete any of the above grounds of appeal.

2. Brief facts of the case are that the assessee is a company involved in the business providing services like curriculum development, teacher recruitment & training, accounting services, pay roll services, marketing services, IT management services, examination services, facilities management, sale of text books and school uniforms etc. Assessee filed its return of income on 26.11.2014, declaring total income at Rs. 198,28,67,080/-. Case of the assessee was selected for scrutiny and assessed at Rs. 201,12,44,346/- consists of disallowance u/s. 14A amounting to Rs. 1,29,99,850/- and Disallowance on account of advances written off amounting to Rs. 1,53,77,420/- vide Para 4 of the assessment order.

3. Assessee being aggrieved with this order preferred an appeal before the Ld. CIT (A), where addition on account of section 14A disallowance was deleted and disallowance on account of advances written off sustained by Ld. CIT (A) also. Being aggrieved with this order of Ld. CIT (A), assessee preferred this appeal before ITAT.

4. We have gone through the order of AO, Ld. CIT (A) and submissions of the assessee. The amount written off and claimed by the assessee consist of Rs. 9,45,576/- as debit balance of various parties, Rs. 6,94,454/- as miscellaneous expenses and Rs. 1,37,37,390/- as advances given to one M/s. Sharp Edutech Pvt. Ltd. For the development of e-learning system and skill-based learning solutions in India and abroad.

5. It is observed that no supporting documents have been filed by the assessee before the AO to claim amount of Rs 9,45,576/- representing excess amount paid to various creditors, Rs 6,94,454/- represents miscellaneous expenses and was wrongly shown as advances written off by mistake. Although assessee furnished the list of parties in respect of which the balances were written off amounting to Rs 9,45,576/-. Still assessee is not in a position to adduce any evidence w.r.t. both the amounts. Here we have taken into consideration the volume of the business, amount of income declared by the assessee vis-à-vis these two petty amounts of Rs 9,45,576/- claimed as excess amount paid various creditors and Rs 694454/- claimed as miscellaneous expenses, we don't find these amounts to be material enough for which assessee will file a false claim. Resultantly relying on the circumstantial evidence and figures under consideration we allow these two amounts as business expenditure.

6. As far as the claim of Rs. 1,37,37,390/- written off as amount was advanced to one M/s Sharp Edutech Pvt Ltd is concerned it is clearly established on record that no agreement is there between the parties, no supporting evidence with reference to the services to be rendered by the vendor and above all assessee don't even have the pan no of the party. This amount was paid during the

assessment year 2013-14 and 2014-15. On ROC website it is shown that the company is under process of striking off.

7. Based on the above facts it is crystal clear that this claim of assessee is ingenuine and rather falls in the category of fake claim. As there is no agreement, no whereabouts of the company, non-availability of PAN, non-availability of any log book about the progress of the project, no details about the owners/ directors of the company and as per ROC website company is under the process of strike off. These facts are enough to establish that the assessee company is claiming a sham transaction in the guise of business bad debts.

8. Without any hesitation we declare this claim of assessee of Rs. 1, 37, 37,390/- as a sham transaction and liable to be disallowed. In the light of above the findings and orders of the authorities below are confirmed.

9. **In the result, appeal filed by the assessee is partly allowed.**

Order pronounced in the open court on 5<sup>th</sup> day of January, 2023.

Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER

Sd/-  
(GAGAN GOYAL)  
ACCOUNTANT MEMBER

Mumbai, दिनांक / Dated: 05/01/2023

SK, Sr.PS

**Copy of the Order forwarded to:**

1. अपीलार्थी / The Appellant ,
2. प्रतिवादी / The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई / DR, ITAT, Mumbai
6. गार्ड फाइल / Guard file.

//True Copy//

BY ORDER,

(Dy. /Asstt. Registrar)  
**ITAT, Mumbai**