

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 1992/Mum/2023
(A.Y: 2013-14)

Mr. Praveen Hanumanmal Bachhawat, No A/21, Sky scraper, Bhulabhai Desai Marg, Beach Candy, Mumbai-400026.	Vs	DCIT-Cir-4(2)(1), 7 th Floor, Prathishtha Bhavan, New Marine Lines, Mumbai-400020.
PAN/GIR No. : AAHPB1821D		
Appellant	..	Respondent

Assessee by :	Shri. Prakash Jhujhunwala. AR
Revenue by :	Shri. S.G. Menon. Sr. DR

Date of Hearing	09.11.2023
Date of Pronouncement	10.11.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC) Delhi / CIT(A) passed u/sec 143(3) and U/sec 250 of the Ac. The assessee has raised the following grounds of appeal:

1 .On the facts and circumstances of the case and in Law, Ld. CIT(Appeal) erred in dismissing the appeal for belated filing of appeal without considering the facts that the due date for filing appeal was extended till 15/06/2016 By CBDT whereas appeal filed by appellant was on 14/06/2016 i.e. within extended time period.

2. *On the facts and circumstances of the case and in Law, Ld. CIT(Appeal) erred in not considering the submissions made by the appellant during appellate proceedings.*

3. *On the facts and circumstances of the case and in law, Ld. CIT(Appeal) erred in confirming disallowance of Rs. 2,79,529/- u/s. 14A of the Income Tax Act, 1961 without considering the facts of the case*

4. *On the facts and circumstances of the case and in law, Ld. CIT(Appeal) erred in confirming the disallowance of interest of Rs. 4,14,265/- on proportionate outstanding loans/advances with total assets and on ignoring the facts that the disallowance of interest u/s. 14A r.w.s.8D of Rs. 2,79,529/- had already been made in assessment*

4. *The appellant craves leave to add, amend, or modify any or all grounds till the disposal of appeal.*

2. The brief facts of the case that, the assessee is engaged in the business of investments in shares and derives income from capital gains and income from other sources. The assessee has filed the return of income for the A.Y 2012-13 on 31.12.2015 disclosing a total income of Rs. 26,43,450/- and the return of income was processed u/s 143(1) of the Act. Subsequently the case was selected for

scrutiny and notice u/sec 143(2) and u/sec 142(1) of the Act are issued. In compliance to the notice, the Ld. AR of the assessee appeared from time to time and submitted the details and the case was discussed. On perusal of the financial statements, the Assessing Officer(AO) found that the assessee has made investment of Rs. 60,50,263/- in the equity shares as per the balance sheet and during the financial year the assessee has received dividend income on equity shares and mutual funds of Rs. 32,207/- and claimed exempt u/s 10(34) of the Act. Whereas the AO found that the assessee has not made any disallowance of expenditure incurred in earning the exempt income U/sec14A of the act and called for the explanations. Whereas the A.O has dealt on the provisions of Sec. 14A r.w.r 8D(2) of the IT rules, facts and judicial decisions and has computed disallowance u/s 14A r.w.r 8D(2)(iii)of IT rules of Rs.2,79,529/-. Similarly, the AO found that the assessee has earned interest income of Rs.16,58,344/- and offered under income from other sources and the assessee has claimed the interest expenditure of Rs.11,86,804/- and net interest income was offered. The assessee was called to file the details, nexus of earning & paying of interest and ratio of allocation of expenses paying interest. Since there

was no proper compliance, the AO has computed the disallowance of interest expenses of Rs.4,14,265/- and assessed the total income of Rs. 33,37,250/- and passed the order u/sec 143(3) of the Act dated 31.12.2015.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has issued notice and there was partial compliance by the assessee and there was delay in filling the appeal and no condonation application was filed by the assessee. Hence the CIT(A) has not admitted the appeal and dismissed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has not considered the facts that the assessee has received the A.O order and has filed the appeal before appellate authorities within the extended time limit in the E filling of appeals. Further the Ld.AR emphasized that the assessee has good case on merits and prayed for an opportunity to substantiate with the material evidences

before the lower authorities. Contra, the Ld. DR supported the order of the CIT(A).

5. Heard the rival submissions and perused the material on record. Prima-facie, the CIT(A) has passed the order considering the fact that there is no proper compliance by the assessee and the delay in filing the appeal was not explained with the reasonable cause. The Ld.AR referred to the CBDT circular no.20/2016 dated 26-05-2016, on the extension of time limit of E-filing of appeals, where the due date has been extended to 15.06.2016. Further the assessee has filed the appeal with the CIT(A) on 14-06-2016 before the extended date as per CBDT circular. Whereas the assessee has raised grounds of appeal challenging the additions of the A.O and there could be various reasons for non submissions of details. Therefore, considering the principles of natural justice shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information and evidences for early disposal of the appeal. Accordingly,

allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by assessee is allowed for statistical purposes.

Order pronounced in the open court on 10.11.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 10.11.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai