

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

**ITA NO.4465/MUM/2023  
Assessment Year 2016-17**

Kamlakant Chhotalal Exporters  
Private Limited,  
45,Ramsharan Co-op Society,  
Jain Mandir Marg, Sion,  
Mumbai – 400 022.  
PAN:AAACK-2244-H

- Appellant

Vs.

ACIT,PCIT,DCIT-CIRCLE 6(3)(2),Mumbai  
Aaykar Bhavan, Maharshi Karve Road,  
Mumbai 400 020.

- Respondent

Appellant by : Shri Pradip N. Kapasi  
Respondent by : Shri Suni Mathew, Sr.DR

Date of Hearing : 30/04/2024  
Date of Pronouncement : 02/05/2024

**ORDER**

The assessee has filed this appeal challenging the order dated 10/10/2023 passed by Ld CIT(A), NFAC, Delhi and it relates to the assessment year 2016-17. The grounds urged by the assessee on merits relate to the following issues:

- (a) Disallowance of expenditure u/s. 37 of the Act;
- (b) Assessing interest income under the head 'income from other sources' as against the business income declared by the assessee;
- (c) Disallowance made u/s. 14 of the Act.

Apart from the above three grounds on merits, the assessee has raised certain legal grounds also.

2. The facts relating to the case are stated in brief. The assessee-company is stated to be engaged in the business of textiles trading, money lending and other activities. However, during the year under consideration, the assessee has earned interest income, dividend income and gains/loss on sale of shares/derivatives. The return of income filed by the assessee was taken up for scrutiny. The Assessing Officer noticed that the assessee has earned exempt dividend income of Rs.1.45 crores and has disallowed a sum of Rs.6,78,553/- u/s. 14A of the Act. The Assessing Officer, however, computed the disallowance as per Rule 8D of Income Tax Rules,1962 at Rs.8,60,615/- and disallowed the same as against Rs.6,78,553/- worked out by the assessee. The Assessing Officer noticed that the assessee has declared interest income of Rs.6,42,125/- and loss on derivatives of Rs.1,38,090/- under the head "Income from business". The Assessing Officer assessed the interest income under the head 'income from other sources' and also held that the loss on derivative transactions is speculative in nature. The assessee had claimed expenses aggregating to around Rs.54 lakhs against the above said interest & derivatives income and accordingly declared loss under the head Income from Business. Since the Assessing Officer assessed interest income under the head Income from other sources, he took the view that the assessee has not carried out any business activity and accordingly, disallowed the entire expenditure claimed by the assessee after reducing disallowance of Rs.8,60,615/- made u/s.14A of the Act. The net disallowance of expenses made by the AO was Rs.45,45,312/- . Accordingly, he determined the total income of the assessee at Rs.32,68,370/-. In the appellate proceedings the Id.CIT(A) granted partial relief and hence, the assessee has filed this appeal before the Tribunal.

3. I heard parties and perused the record. I notice that the business of the assessee consisted of money lending activities also and the interest income has been earned by the assessee out of the money lending activities only. Hence, I do not find any reason for assessing the interest income under the head 'income from other sources'. Accordingly, I direct the Assessing Officer to assess the interest income under the head 'income from business'.

4. With regard to the disallowance of expenditure, the ld.A.R brought to my notice a comparative chart of expenditure claimed by the assessee in various years, which is placed at page 240 of the paper book. A perusal of the same would show that the expenditure claimed by the assessee is consistent with that claimed in the earlier years. Further, routine expenses have been claimed and no abnormal increase in any of the expenditure is seen. In fact, the aggregate amount of expenditure claimed during the year under consideration was lower than that claimed in the earlier two years. Since I have held that the interest income is assessable as business income, the expenditure claimed in the normal course should be allowed. Hence, I do not find any necessity to disallow the expenditure in toto without finding fault in any of the claim made by the assessee. Accordingly, I direct the Assessing Officer to allow entire expenses claimed by the assessee.

5. With regard to the disallowance made u/s. 14A of the Act, the ld.AR submitted that the assessee had computed disallowance u/r.8D(2)(iii) by considering only those investments which has yielded exempt income, However, the Assessing Officer has considered the entire value of investment for computing disallowance. I find that the computation made by the assessee finds support from the decision

rendered by Delhi Special Bench of ITAT in the case of Vireet Investments Pvt. Ltd (165 ITD 27). Accordingly, I direct the Assessing Officer to accept the computation made by the assessee.

6. The remaining grounds urged by the assessee are legal grounds. Since, the ground urged on merits have been allowed, I do not find it necessary to adjudicate the legal grounds, as they are now academic in nature.

7. In the result, appeal filed by the assessee is treated as allowed.

Order pronounced in the open court on 2<sup>nd</sup> May, 2024.

Sd/-

(B.R. Baskaran)  
Accountant Member

Mumbai, Date : 2<sup>nd</sup> May, 2024

VM.

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The PCIT/CIT concerned
- 4) The D.R, "SMC" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai