

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "A" BENCH : PUNE

[THROUGH VIRTUAL HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.Nos.1230 & 1231/PUN./2023

Assessment Years 2013-2014 & 2014-2015

M/s. Kalra Overseas and Precision Engineering Limited, 411/412 City Point, Boat Club, Dhole Patil Road, Boat Club Road, PUNE – 411 001. Maharashtra. PAN AABCK2406Q	vs.	The DCIT, Circle-14, 4 th Floor, PMT Bldg., Commercial Complex, Shankar Seth Road, Swargate, PUNE – 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Gopal R Aswani
For Revenue :	Shri Ramnath P Murkude

Date of Hearing :	29.04.2024
Date of Pronouncement :	14.05.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

These assessee's twin appeals I.T.A.Nos.1230 & 1231/PUN./2023 for assessment years 2013-2014 & 2014-2015, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1056384758(1) and 1056385410(1), dated 21.09.2023, in proceedings u/s.143(3) of the Income Tax Act, 1961 (in short "the Act"); respectively.

Heard both the parties. Case files perused.

2. It emerges at the outset that the assessee has pleaded its identical twin substantive grounds in both these appeals. Its former grievance is that both the learned lower authorities have erred in law and on facts in invoking sec.40(a)(ia) disallowance(s) of Rs.18,82,074/- and Rs.14,10,588/-; assessment year-wise; respectively; on account of non-deduction of TDS on interest paid to various non-banking finance companies. Learned counsel's first and foremost argument during the course of hearing is that both the lower authorities have nowhere treated the assessee as the assessee in default u/sec.40(a)(ia) 2nd proviso r.w.s.201(1A) 1st proviso and therefore, this disallowance is not sustainable. He sought to buttress the point that the assessee had already filed the corresponding Form-26A before the lower authorities duly disclosing the recipients herein to have assessed for the very interest income in their respective hands. The Revenue on the other hand strongly supported the impugned disallowance(s) by pinpointing the fact that the assessee had filed the foregoing details before the learned NFAC only.

3. We are of the considered opinion in this factual backdrop that the assessee's foregoing details that the corresponding recipients already stand assessed *qua* the impugned interest income have nowhere been put to factual verification. That being the case, we deem it appropriate to restore the assessee's instant identical former substantive ground in both these appeals back to the learned Assessing Officer for his afresh appropriate factual

verification thereof as per law, within three effective opportunities of hearing subject to the rider that it is the taxpayer's sole risk and responsibility to prove the case in consequential proceedings. Ordered accordingly.

4. Next comes the identical issue of sec.14A r.w.s.8D disallowance(s) of Rs.13,45,085/- and Rs.14,57,466/- assessment year-wise, respectively. Needless to say, the assessee had derived identical dividend income of Rs.3200/- each in both these assessment years. We note in this factual backdrop that this tribunal's learned coordinate bench's order in assessee's own case in assessment year 2015-2016 in ITA.No.1328/PUN./2018 dated 07.03.2019 has already decided the issue in it's favour and against the department whilst holding that such computation could not exceed the amount of exempt income(s) itself.

5. We adopt judicial consistency in these facts and circumstances and restrict both these disallowance(s) involving varying sums to the tune of Rs.3200/- each in these twin assessment years. Necessary computation shall follow as per law. Ordered accordingly.

6. Delay of 01 day in filing the instant twin appeals is condoned in light of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

7. These assessee's twin appeals I.T.A.Nos.1230 & 1231/PUN./2023 are partly allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 14.05.2024.

Sd/-
[DR. DIPAK P. RIPOTE]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 14th May, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "A" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.