

**IN THE INCOME-TAX APPELLATE TRIBUNAL “SMC” BENCH,
MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL
MEMBER**

&

SMT. RENU JAUHRI, ACCOUNTANT MEMBER

ITA No. 4204/Mum/2023

(A.Y. 2013-14)

M/s Gujarat Enterprises Shop No. 6, Ground Floor, Rachana CHS, Opp MCF, Jogurs Park, Eksar Road, Borivali West, Mumbai-400092	Vs.	ITO-32(1)(5) Kautilya Bhavan, Bandra Kurla Complex, Mumbai-400051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AADFG0916G		
Appellant	..	Respondent

Appellant by :	Shri Anuj Kisnadwala
Respondent by :	Shri Himanshu Kumar

Date of Hearing	15.05.2024
Date of Pronouncement	28.06.2024

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Pune-11 [hereinafter referred to as “CIT(A)”] dated 27.09.2023 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for the relevant Assessment Year [A.Y.] 2013-14.

2. The assessee has raised following grounds of appeal:

1. The learned CIT(A) has erred in law and on facts in upholding the disallowance of the interest amounting to Rs. 2,15,014/ on the alleged accommodation loan taken by the appellant without appreciating the fact that in AY 2012-13, the said loan taken by the assessee is considered as genuine.

2. The learned CIT(A) has erred in law and on facts by charging interest u/s 234C of the Act.

3. The appellant craves leave to add to, amend, alter or delete all or any of the foregoing grounds of appeal.

3. Brief facts of the case are that the return of income was filed on 29.09.2013 declaring total income of Rs. 15,74,590/-. The assessment was completed u/s 143(3) of the Act by making an addition of Rs. 2,15,014/- on account of interest paid on bogus unsecured loan. The Ld. CIT(A) vide his order dated 27.09.2023 has upheld the disallowance on the ground that the Hon'ble ITAT, Mumbai bench in the case of Shri Praveen Kumar Jain had held that unsecured loans provided by various shell entities (including M/s Duke Business Pvt Ltd. from whom this unsecured loan had been taken) are nothing but accommodation entries. Following these findings of the co-ordinate bench, the Ld. CIT(A) observed that the unsecured loans received from M/s Duke Business Pvt. Ltd. by the assessee is not genuine and interest paid on the same was rightly disallowed by the AO.

4. Before us, the Ld. AR submitted that the unsecured loan was received in the preceding year relevant to AY 2012-13 and the department has not made any addition on account of this loan. Copy of the assessment order u/s 143(3)

for AY 2012-13 dated 07.11.2014 has also been filed in which the returned income has been accepted.

5. We have heard the rival submissions. A clarification was sought from the Ld. DR regarding status of proceedings for re-opening, if any, for AY 2012-13. As clarified by the Ld. DR, no action has been taken, with regard to the loan in question, during the assessment year 2012-13. Since, the loan has not been treated as bogus/non-genuine, the disallowance of interest thereon in this year is not justified. The addition of Rs. 2,15,014/- on this account is accordingly deleted.

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

Order Pronounced in Open Court on 28.06.2024

Sd/-

(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-

(RENU JAUHRI)
ACCOUNTANT MEMBER

Place: Mumbai

Date 28.06.2024

ANIKET SINGH RAJPUT/STENO

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.