

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"SMC" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER AND**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA no.1341/Mum./2024**

**(Assessment Year : 2012-13)**

**PMS Exports Pvt. Ltd**

B-4 Unique House, Cardinal Gracious

Road, Chakala, Andheri (E)

Mumbai-400099

PAN – AACCP0702H

..... Appellant

v/s

**ITO, Circle-7(3)(3)**

23 Aayakar Bhavan, 2<sup>nd</sup> Floor

M. K. Road, Mumbai-400020

..... Respondent

Assessee by : Shri Shyam Agrawal

Revenue by : Shri Himanshu Sharma, CIT- DR

Date of Hearing -01/07/2024

Date of Order – 01/07/2024

**ORDER**

**PER NARENDRA KUMAR BILLAIYA, A.M.**

This appeal by the assessee is preferred against the order dated 22/12/2023 by National Faceless Appeal Centre, Delhi pertaining to A.Y.2012-13.

2. The sum and substance of the grievance of the assessee is that the learned CIT(A) erred in confirming disallowance of Interest of Rs.14,79,863/- without appreciating that the quantum additions on account of unsecured loan

u/s 68 of the Income Tax Act, 1961 (hereinafter "the Act") are still under dispute before him.

3. Brief facts of the case are that the assessment was framed u/s 143(3) of the Act vide order dated 27/03/2015 in which the return income of the assessee was assessed at Rs.22,32,667/-. After making an addition on account of unsecured loan of Rs.1.95 cr from M/s. API Industries Pvt. Ltd and Rs.1,66,68,454/- from M/s. Gujarat Packaging. The assessee preferred an appeal against this addition. However, the AO did not disallow the interest claimed on the aforementioned loans, therefore, by way of a rectification order framed u/s 154 of the Act interest of Rs.14,79,863/- was disallowed. The assessee preferred an appeal against this order but the same was dismissed by the learned CIT(A).

4. After carefully going through the orders of the authorities below, we are of the considered view that unless the quarel in respect of quantum addition is decided the issue relating to the allowibility of interest cannot be decided. Therefore, in the interest of justice and fair play, we deem it fit to restore the impugned issued to the file of the learned CIT(A). The learned CIT(A) is directed to decide the appeal in respect of quantum addition first and then decide the appeal relating to the allowability of the interest expenses after affording a reasonable and adequate opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 01/07/2024

**Sd/-**  
**RAHUL CHAUDHARY**  
**JUDICIAL MEMBER**

**Sd/-**  
**NARENDRA KUMAR BILLAIYA**  
**ACCOUNTANT MEMBER**

**MUMBAI, DATED: 01/07/2024**

*Vijay Pal Singh, (Sr. PS)*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai