

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "डी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" D " BENCH, AHMEDABAD

श्री सिद्धार्थ नौटियाल, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.1094/Ahd/2024
निर्धारण वर्ष /Assessment Year : 2017-18

Siwana Agri Marketing Ltd. (Now Merged with Vital Connections LLP) 401, Ashopalav Apartments Near Suvidha Shopping Centre Paldi Ahmedabad - 380 007 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The ACIT Circle-4(1)(1) Ahmedabad
स्थायी लेखा सं./PAN: AACCS 9598 J		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Prakash D. Shah, AR	
Revenue by :	Shri Atul Pandey, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 25/11/2024
घोषणा की तारीख /Date of Pronouncement: 27/11/2024

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, AM:

This appeal by the assessee arises from the order dated 26-03-2024, passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as "CIT(A)"), under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). The said order was passed in connection with the assessment order under Section 143(3) of the Act dated 27-11-2019, passed by the Assessing Officer

(hereinafter referred to as "AO"), Circle 4(1)(1), Ahmedabad, for the Assessment Year (AY)2017-18.

Facts of the Case:

2. The assessee Siwana Agri Marketing Limited (now merged with "Vital Connections LLP"), filed its return of income for AY 2017-18, declaring a total income of Rs.31,91,560/-. The case was selected for scrutiny under the Computer Assisted Scrutiny Selection (CASS), and notices under Sections 143(2) and 142(1) of the Act were issued. After examining the submissions and documents, the AO completed the assessment under Section 143(3) of the Act on 27-11-2019, determining total income at Rs.97,85,762/-.

2.1. The AO disallowed Rs.65,86,200/- under Section 36(1)(iii) of the Act, observing that the assessee had advanced interest-free loans amounting to Rs.5.48 crores while incurring significant interest expenses on unsecured borrowings. The AO held that the assessee failed to establish a nexus of these advances with interest-free funds and did not demonstrate any business purpose. The AO also disallowed Rs.8,002/-, citing non-compliance with Section 36(2) of the Act, as the amount written off was not recognized as income in earlier years.

3. The assessee appealed the AO's order, contending that the interest-free advances were made out of sufficient interest-free funds, and the sundry balances written off were business-related. The CIT(A) upheld the AO's findings, holding that the assessee failed to substantiate its claims with adequate evidence or satisfy the legal requirements under the Act.

4. Aggrieved by the order of the CIT(A), the assessee filed this appeal, raising the following grounds:

1. *The learned National Faceless Appeal Centre has erred in law and facts by confirming the disallowance of interest expense of Rs.65,86,200/- under section 36(1)(iii) of the Act and therefore the learned AO be directed to allow the interest expense while computing Total Income.*
2. *The learned National Faceless Appeal Centre has erred in law and facts by confirming the disallowance of sundry balance written off of Rs.8,002/- and therefore the learned AO be directed to allow the same while computing Total Income.*
3. *That the appellant craves liberty to add, amend and alter any ground of appeal before the final hearing.*

5. During the course of hearing before us, the Authorised Representative (AR) of the assessee stated that the assessee has sufficient own funds to advance the loan. The AR pointed out from the sufficiency of own funds from the financial statements which are detailed as follows:

<u>Particulars</u>		<u>As on 31-3-2017</u>	<u>As on 31-3-2016</u>
Share Capital	in Rs.	1,025,000	1,365,400
<u>Reserves and Surplus</u>	<u>in Rs.</u>	<u>270,037,683</u>	<u>301,768,032</u>
Total	in Rs.	271,062,683	303,133,432

5.1. The AR also stated that, during the year under consideration, the amount of loan given is Rs.15,75,000/- only and all other amounts are opening balances. The AR also highlighted that no disallowance was made in earlier years, despite the existence of similar advances amounting to Rs.5.33 crores and the assessee earned net interest income of Rs.1.10 crores during the year, further negating any suspicion of diversion of interest-bearing funds. The AR stated that when the assessee has sufficient own funds to lend or invest, no such disallowance can be made. The AR placed reliance on the

judgement of Hon'ble Supreme Court in case of **CIT(LTU) Vs. Reliance Industries Ltd. reported at 410 ITR 466 [2019]**.

5.2. The AR also argued that the reliance placed by the AO and CIT(A) on older judgments such as *S.A. Builders v. CIT [Appeal (civil) 5811 of 2006 (SC)]* was misplaced in light of the later, the Hon'ble Supreme Court ruling in *Reliance Industries Ltd.*

5.3. Regarding the ground relating to sundry balances written off, the AR stated that an amount of Rs.10,000/- was advanced to the employee of the assessee which could not be recovered and excess interest of Rs.1,998/- received on such advance was credited to the same account and net balance of Rs.8,002/- was written off. The AR further stated that the advance was given to employee during the normal course of business and therefore this amount written off is allowable as business expenditure u/s 37 of the Act.

5.4. On the other hand, the Departmental Representative relied on the orders of lower authorities.

6. We have carefully considered the submissions of both parties, the findings of the AO and CIT(A), the judicial precedents relied upon by the assessee and the Revenue, and the material placed on record.

The primary issues under consideration are:

- The disallowance of Rs.65,86,200/- under Section 36(1)(iii) on the grounds that interest-free advances were made without establishing a business purpose or demonstrating the nexus between interest-free funds and such advances.

- The disallowance of Rs.8,002/- on account of sundry balances written off, citing non-compliance with Section 36(2) of the Act.

6.1. The CIT(A) observed that the assessee failed to substantiate its claim that interest-free funds were utilized for the interest-free advances. It was noted that no fund flow statement or evidence was provided by the assessee to establish a clear nexus between interest-free funds and advances of Rs.5.48 crores. The CIT(A) emphasized that the assessee failed to demonstrate any business purpose or commercial expediency for the advances, which is a key requirement under Section 36(1)(iii). Reliance was placed on the Hon'ble Supreme Court's judgment in *S.A. Builders v. CIT (288 ITR 1)*, which mandates that advances must be for business purposes to qualify for deduction of interest expenses. The CIT(A) did not address the assessee's argument that similar advances in prior years were not subjected to disallowance. In the absence of evidence substantiating the nexus of interest-free funds or demonstrating the business purpose of the advances, the CIT(A) upheld the disallowance of Rs.65,86,200/-.

6.2. Based on the material on record, we find that the assessee had sufficient interest-free funds amounting to Rs.27.10 crores as on 31-03-2017, which were more than adequate to cover the interest-free advances of Rs.5.48 crores. The CIT(A) did not address the assessee's submission that no disallowance was made in earlier years despite similar advances. The principle of consistency was disregarded. The CIT(A)'s emphasis on the absence of a fund flow statement is unjustified, as the assessee's financial statements clearly indicated the sufficiency of interest-free funds. The CIT(A)'s reliance on *S.A. Builders v. CIT (supra)* is misplaced. While that case emphasizes the

requirement of commercial expediency, the principles laid down in *CIT v. Reliance Industries Ltd. (supra)*, a subsequent Hon'ble Supreme Court's decision, clarify that where sufficient interest-free funds are available, the presumption arises that such advances are made from those funds. Following the principle established in *CIT v. Reliance Industries Ltd. (supra)*, it is presumed that such advances are made from interest-free funds. The Revenue has failed to establish a direct nexus between borrowed funds and these advances. Therefore, the disallowance of interest expenses under Section 36(1)(iii) of the Act cannot be sustained.

6.3. The write-off of Rs.8,002/- pertains to non-recoverable advances given to employees, which are incidental to the assessee's business operations. Such advances, though not strictly satisfying Section 36(2) of the Act, qualify as deductible business expenses under Section 37. Further, considering the nominal amount involved, disallowance on this account is unwarranted.

6.4. In view of the above findings, the disallowances made by the AO and upheld by the CIT(A) are unsustainable. Accordingly, we allow both grounds of the appeal in favour of the assessee.

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

Order pronounced in the Open Court on 27 November, 2024 at Ahmedabad.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

अहमदाबाद/Ahmedabad, दिनांक/Dated

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

17/11/2024

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A) - (NFAC)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad