

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.644/Ind/2024
(Assessment Year: 2016-17)

Pawan Tradecorp Private Limited, Khandelwal Complex, Dhar Road, Manawar, Dist. Dhar Dhar	Vs.	ACIT 4(1), Indore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AADCP6640D		
Assessee by	Ms. Nisha Lahoti, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	27.02.2025	
Date of Pronouncement	27.02.2025	

ORDER

This appeal by the assessee is directed against the order dated 30.07.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre , Mumbai for A.Y.2016-17 which is arising from the assessment order u/s 143(3) of the Act dated 06.07.2018 framed by ACIT-4(1), Indore.

2. Assessee has raised following grounds of appeal:

"1. On the facts and circumstances of the case and applicable Ld. CIT(A) erred in sustaining the assessment order passed by Ld. AO u/s 143(3) which is contrary to the material on records and provisions of the Act, unjust and bad in law.

2. On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the disallowance made u/s 14A read with rule 14A of Rs. 4,60,825.

3. On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the disallowance made u/s 14A read with rule 14A of Rs. 4,60,825 more particularly when the assessee is sufficient own funds.

4. On the facts and circumstances of the case and applicable law. Ld. CIT(A) erred in not considering the written submissions made and documentary evidences in proper perspective.

5. The appellant craves leave to add, amend, alter or otherwise."

3. The sole grievance of the assessee is that the Ld. CIT(A) in confirming the disallowance made u/s 14A r.w.s. 8D of the Act at Rs.4,60,825/-.

4. At the outset Ld. Counsel for the assessee submitted that the impugned addition deserves to be deleted on the ground that the assessee was having sufficient interest free funds to explain the source of alleged investment. For this proposition she referred and relied to many decisions including that of *Hon'ble Bombay High*

Court in case of CIT v. Reliance Utilities & Power Ltd 313 ITR and that in case of CIT V/s HDFC Bank 366 ITR 505.

5. On the other hand Ld. Departmental Representative supported the orders of the lower authorities.

6. I have heard rival contentions and perused the records before me. The assessee is a Private Limited company and income of Rs.31,61,660/- declared in the e-return for Assessment Year 2016-17 filed on 29.09.2016. In the assessment proceedings carried out u/s 143(3) of the Act dated 06.07.2018, Ld. A.O based on his observations that the assessee has made investment in the partnership firm and on average value of investment at Rs.76,82,917/- calculated the disallowance u/s 14A of the Act at Rs.4,60,825/-. This amount included Rs.4,22,410/- on account of interest disallowance and Rs.38,415/- on account of 0.5% disallowance as per Clause(iii) of Rule 8D.

6.1 So far as interest disallowance u/s 14A of the Act at Rs.44,240/- is concerned I have examined the facts of the case in light of ratio laid down by the *Hon'ble Bombay High Court in case of*

CIT v. Reliance Utilities & Power Ltd 313 ITR and that in case of *CIT V/s HDFC Bank 366 ITR 505 (supra)* and carefully perused the audited balance sheet of the assessee for the year ended 31.03.2016. I notice that the shareholder fund consisting of share capital and accumulated reserve and surplus are amounting to Rs.2,26,95,353/-. The shareholder fund in the preceding year on 31.3.2015 was Rs.2,27,99,196/-. Now against the said interest free amount available with the assessee company, the investment in the particular firm is Rs.73,91,631/- and Rs.79,74,202/- as on 31.3.2015 and 31.03.2016 respectively. It clearly indicates that the accumulated profits and share capital is much more than the investment made in the particular firm. It is not the case of revenue that interest bearing funds have been specifically applied for making the investment in the particular firm.

6.2 Hon'ble Bombay High Court in case of *CIT v. Reliance Utilities & Power Ltd 313 ITR* and that in case of *CIT V/s HDFC Bank 366 ITR 505 (supra)* held *that where assessee's own funds and other non interest bearing funds were more than investment in tax free securities, impugned order passed by the A.O disallowing a part of interest payments u/s 14A was to be set aside.*

6.3 Respectfully following the above proposition I find that the case of the assessee is squarely covered by the above judgment and therefore no interest disallowance u/s 14A of the Act is called for. Accordingly disallowance of Rs.4,22,410/- made u/s 14A of the Act stands deleted.

6.4 So far as the remaining amount of Rs.38,415/- is concerned I find that the said disallowance is correctly computed by the Ld.A.O and to this extent disallowance made by the Ld.A.O is sustained. Accordingly the finding of Ld. CIT(A) is partly set aside and disallowance made u/s 14A of the Act is sustained and Rs.38,415/- and assessee gets relief of Rs.4,22,410/-. Grounds of appeal raised by the assessee are partly allowed as per the terms indicated above.

In the result appeal of the assessee is partly allowed.

Order pronounced in the open court on 27.02.2025.

Sd/-

(MANISH BORAD)
Accountant Member

Indore, 27.02.2025
Dev/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore