

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri T. R. Senthil Kumar, Judicial Member**

**ITA No: 2677 & 2678/Ahd/2025
Asst. Years: 2013-14 & 2014-15**

The DCIT Circle-2(1)(1), Vadodara (Appellant)	Vs	Gujarat Insecticides Ltd. Plot No. 805-806, GIDC Estate, Ankleshwar Gujarat-393002, Gujarat, India PAN: AAACG8436D (Respondent)
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**Revenue Represented: Shri Rignesh Das, CIT-DR
Assessee Represented: Ms. Arti N Shah, A.R.**

Date of hearing : 09-02-2026
Date of pronouncement : 11-02-2026

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

These two appeals are filed by the Revenue as against the appellate orders both dated 10-10-2025 passed by the Additional Commissioner of Income Tax/JCIT (Appeals), Indore arising out of the assessment orders passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Years 2013-14 and 2014-15 respectively. Since common

issue is involved in these appeals for the sake of convenience the same are disposed of by this common order.

2. ITA No. 2677/Ahd/2025 is taken as the lead case. Brief facts of the case is that the assessee is company engaged in the business of manufacturing Insecticides and Pesticides. It is a subsidiary of M/s. Gharda Chemicals Ltd. Assessee filed its Return of Income for the Asst. Year 2013-14 on 30-11-2013 declaring total income of Rs.8,54,45,937/-. The return was taken for scrutiny assessment and made disallowance u/s. 36(1)(iii)/40A(2)(b) of Rs. 2,26,69,000/- by observing as follows:

“As the assessee company has diverted its interest bearing fund for non-business purposes, the interest expenditure claimed u/s. 36(1)(iii) of the Act on borrowings made not for the purpose of business as aforesaid is required to be disallowed. Further, GCL is a holding company falling within the proviso of sec. 40A(2)(b) and therefore, the assessee company has parked its funds with GCL without interest. Further there is outstanding loan of Rs.1.5 crores against Gharda Foundation, which is a related party, on which no interest has been charged. The assessee has obtained funds in the form of working capital facilities from bank amounting to Rs.2760.55 lacs and paid interest and financial charges of Rs.226.69 lacs (Rs.207.55 lacs + Rs.19.14 lacs) thereon. Thus, average of opening and closing balance in the hand of GCL i.e. Rs.2909.28 lacs has been used in financing the interest free credit given to GCL. The amount of bank loan is less than the amount kept in the hand of GCL. Hence whole of interest and financial charges to the tune of Rs.226.69 lacs is disallowed and added back to the total income of the assessee. Penalty proceedings u/s. 271(1)(c) is being initiated separately for furnishing of inaccurate particulars of income.”

2.1. The assessing officer also made disallowance of Miscellaneous Expenses and Staff Welfare Expenses totaling to Rs.2,08,98,216/- wherein these expenses are not fully supported with proper bills/vouchers and most of the cases, payments were made in cash and self-made vouchers are available. Therefore in the absence of proper and supporting and lack of complete verification adhoc

disallowance at 5% of Rs. 2,08,98,216/- which works out to Rs.10,44,911/- was disallowed and added to the total income of the assessee.

2.2. The A.O. also made disallowance of Repairs and Maintenance to Plant and Machineries Expenses of Rs.73,71,129/-. Thus the assessing officer determined the total income of the assessee as Rs.11,65,30,977/- and demanded tax thereon.

3. Aggrieved against the assessment order, assessee filed an appeal before Ld. CIT(A) who deleted the additions following assessee's own case by his predecessor which was and confirmed by this Tribunal order.

4. Aggrieved against the appellate order, the Revenue is in appeal before us raising the following Grounds of Appeal:

(i) On the facts and circumstances of the case and in law, the Ld. Addl/JCIT(A) erred in deleting the disallowance of Rs.2,26,69,000/- made the A.O. on account of interest free credit granted to the holding company M/s. Gharda Chemicals Ltd., thus diverted the interest bearing funds to its holding company defined u/s. 40A(2)(b) of the Act.

(ii) On the facts and circumstances of the case and in law, the Ld. Addl/JCIT(A) erred in deleting the disallowance of Rs. 8,71,531/- related to expenses claimed under the head Guest House expenses. Testing Tender Fees and Garden expenses, travelling expenses without appreciating the fact that the assessee failed to produce bills/vouchers for verification.

(iii) On the facts and circumstances of the case and in law, the Ld. Addl/JCIT(A) erred in deleting the disallowance of Rs. 73,71,129/- being repaid and maintenance of Plant and Machineries without appreciating the fact that the assessee failed to demonstrate that the said expenses were of recurring nature which do not provide enduring benefit to the plant and machinery.

(iv) The appellant craves leaves to add, modify, amend or alter any grounds of appeal at the time of, or before the hearing of appeal.

5. Regarding the first grounds of appeal namely addition made u/s. 40A(2)(b) of the Act, Co-ordinate Bench of this Tribunal in assessee's own case for the Asst. Year 2009-10 in ITA Nos. 556 & 675/Ahd/2013 dated 19-07-2013 held as follows:

“10. We have heard the rival submissions and perused the material on record. It is an undisputed fact that during the year, Assessee has granted interest free loan of Rs. 2,50,00,000/- to Gharda foundations a related party. A perusal of the balance sheet of the Assessee reveals that the Reserves and Surplus balance as on 1.04.2008 was 56,41,35,000/- and the closing balance as on 31.03.2009 was 65,81,71,000/- thereby indicating an increase in reserves and surplus of Rs. 9,40,36,000/- during the same period as against which the interest free loan given to Gharda Foundation was Rs. 2,50,00,000/-. The aforesaid facts reveals that there was sufficient fund available with the company in the form of reserves and surplus. Further nothing has been brought on record by Revenue to prove that interest bearing loans taken by the Assessee for the purpose of own business has been diverted for non business purposes or for lending to Gharda Foundation. No direct nexus has been proved either by Assessing Officer or by CIT(A) between the interest bearing loans taken and the interest free loans granted. The Hon. Bombay High Court in the case of CIT vs. Reliance Utilities (supra) has held that if there are funds available both interest free and over draft and or loans taken than a presumption would arise that investment would be out of interest free fund generated or available with the company, if the interest free funds were sufficient to meet the investment.

11. In the case of CIT vs. Raghuvir Synthetics (supra), The Hon. Gujarat High Court has held as under:

Head note:

INTEREST ON BORROWED CAPITAL-INTEREST-FREE LOANS TO SISTER CONCERNS HUGE FUNDS AVAILABLE WITH ASSESSEE WITHOUT ANY INTEREST LIABILITY- NO EVIDENCE THAT BORROWED MONEY UTILISED FOR PURPOSE OF ADVANCE TO SISTER CONCERNS-INTEREST ALLOWABLE

12. In views of the aforesaid facts and placing reliance on the aforesaid decisions of Hon. High Courts, we are of the view that no disallowance on account of interest can be made in the hands of the Assessee in the present case. Thus this ground of Assessee is allowed.

13. In the result the appeal of the Assessee is allowed.”

5.1. Ld. CIT-DR could not place on record any order/decision from Higher Judicial Forum reversing or modifying the order passed by the

Co-ordinate Bench of this Tribunal for earlier Asst. Years. Therefore respectfully following the same decision, we do not find any infirmity in the order passed by Ld. CIT(A). Thus Ground No. 1 raised by Revenue is devoid of merits and liable to be dismissed.

6. Regarding Ground No. 2, the revenue claims disallowance of Rs. 8,71,531/- whereas the A.O. made disallowance of Rs.10,44,911/- which is 5% of the total expenses claimed by the assessee for non-verification of bills and vouchers made by the assessee. Thus the Revenue is not aggrieved against the disallowance made by the A.O. On this issue also Co-ordinate Bench of this Tribunal in assessee's own case in ITA No. 460/Ahd/2008 and Others relating to the Asst. Years 2001-02 to 2002-03 vide order dated 31-05-2022 held as follows:

“17. On hearing the submissions of both the sides, we are of the view that the reason for disallowance, as per AO, was that the expenditure was incurred in cash and it could not be verified. Ld.CIT(A) has partly allowed the same following the decisions of his predecessors, therefore, restricted 5% of the total disallowance. We therefore, deem it proper that the disallowance being nominal in nature which was partly upheld by ld.CIT(A) for want of verification being incurred in cash, therefore under the circumstances, no disturbance is required. With the result, this ground of the assessee is hereby dismissed.”

6.1 Since the assessing officer himself restricted 5% of the total disallowance, the same does not require any interference. Hence the ground no. 2 raised by the Revenue is hereby dismissed.

7. Ground No. 3 disallowance of Repairs and Maintenance to Plant and Machinery expenses. This issue also considered by the Co-ordinate Bench of this Tribunal in ITA No. 2519/Ahd/2016 for Asst.

Year 2012-13 vide order dated 26-09-2022 wherein it is held as follows:

“42. We have heard the submissions of the ld. Sr. D.R. for the revenue and the ld. A.R. for the assessee and have gone through the orders of the lower authorities carefully. The ld. Sr. DR for the revenue supported the order of assessing officer and prayed to restore it.

43. On the other hand, the Id AR for the assessee supported the order of ld CIT(A). The Id AR for the assessee submits that ld CIT(A) has given clear finding that the order of the assessing officer is not based on any material or evidence and are general in nature. No new machine has come in existence, rather it was replacement of certain part of existing machinery.

44. We have considered the rival submissions of the parties and considered the orders of the lower authorities. We find that the assessing officer while treating the expenses as capital in nature has not given any basis of his observation if his observation is based on any material or evidence and is basically general in nature. We find that the ld. CIT(A) while deleting the addition clearly held that the assessing officer has not brought any material on record to prove that some of those items are independent machine or apparatus, which can be used independently for manufacturing activities. Further, the assessing officer has not explained the technical aspect of the items to prove that the replaced items are independent machine which could be used independently. The Id CIT(A) concluded that finding of the assessing officer is not based on any material or evidence and are general in nature, thus he is not correct in treating such expenditure as capital in place of revenue. No contrary fact or law is brought to our notice to take other view to the finding of the ld CIT(A). Hence, we affirm the order of ld CIT(A). In the result, this ground of appeal is dismissed.

45. In the result, the appeal of the revenue for AY 2012-13 in ITA No. 2519/AHD/2016 is dismissed.”

8. Ld. Sr. D.R. appearing for the Revenue could not dispute the above findings of the Tribunal which has been reversed or modified by Higher Judicial Forum.

9. In the absence of same, we have no hesitation in following the Co-ordinate Bench decisions in assessee's own case. Thus the ground no. 3 raised by the Revenue is devoid of merits and is hereby dismissed.

10. In the result, the appeal filed by the Revenue in ITA No. 2677/Ahd/2025 is hereby dismissed.

ITA No. 2678/Ahd/2025 for Asst. Year 2014-15

11. The Grounds of Appeal raised by the Revenue are as follows:

(i) On the facts and circumstances of the case and in law, the Ld. Addl/JCIT(A) erred in deleting the disallowance of Rs. 1,56,98,000/- made the A.O. on account of interest free credit granted to the holding company M/s. Gharda Chemicals Ltd., thus diverted the interest bearing funds to its holding company defined u/s. 40A(2)(b) of the Act.

(ii) On the facts and circumstances of the case and in law, the Ld. Addl/JCIT(A) erred in deleting the disallowance of Rs. 9,88,274/- related to expenses claimed under the head Guest House expenses. Testing Tender Fees and Garden expenses, travelling expenses without appreciating the fact that the assessee failed to produce bills/ vouchers for verification.

(iii) On the facts and circumstances of the case and in law, the Ld. Addl/JCIT(A) erred in deleting the disallowance of Rs. 61,74,381/- being repaid and maintenance of Plant and Machineries without appreciating the fact that the assessee failed to demonstrate that the said expenses were of recurring nature which do not provide enduring benefit to the plant and machinery.

(iv) The appellant craves leaves to add, modify, amend or alter any grounds of appeal at the time of, or before the hearing of appeal.

12. Here also, no change in facts of the case but change in figures of disallowance only. So the facts decided in ITA No.2677/Ahd/2025 is squarely applicable to the facts of the present case by mutatis mutandis. Therefore the appeal filed by the Revenue in ITA No. 2678/Ahd/2025 is hereby dismissed.

Order pronounced in the open court on	11 -02-2026
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Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT *True Copy*
Ahmedabad :

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Dated 11/02/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद