

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2757/PUN/2024  
निर्धारण वर्ष / Assessment Year : 2021-22

Ashwinikumar Ramkumar Poddar, Plot No.342, Sind Society, Baner Road, Aundh, Pune- 411007. PAN : AARPP7606E	Vs.	ACIT, Central Circle-1(2), Pune.
Appellant		Respondent

आयकर अपील सं. / ITA No.2758/PUN/2024  
निर्धारण वर्ष / Assessment Year : 2021-22

Aditya Arunkumar Poddar, Plot No.130, Sind Society, Baner Road, Aundh, Pune- 411007. PAN : AHSPP3084G	Vs.	ACIT, Central Circle-1(2), Pune.
Appellant		Respondent

Assessee by : Shri Sarvesh Kandelwal  
Revenue by : Smt. Sonal L. Sonkavde  
Date of hearing : 02.02.2026  
Date of pronouncement : 10.04.2026

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

Both the above captioned appeals filed by the two different assessesees are directed against the separate orders dated 28.10.2024

passed by Ld. CIT(A), Pune-11 ['Ld. CIT(A)'] for the assessment year 2021-22 respectively.

2. Since identical facts and common issues are involved in both the above captioned appeals of the two different assessee, therefore, we proceed to dispose of the same by this common order.

3. First, we shall take up the appeal of the assessee in ITA No.2757/PUN/2025 for adjudication as the lead case.

**ITA No.2757/PUN/2025 :**

4. The appellant has raised the following grounds of appeal :-

- “1. On the facts & circumstances prevailing in the case & as per the provisions of the Act it be held that the additions so made on account deemed dividend under clause e of sub section 22 of section 02 amounting to Rs. 76,73,718/- is unjust and inappropriate. The additions so made be deleted. Just and proper relief be granted.*
- 2. Without prejudice to ground no. 1 the additions so made on account of deemed dividend under clause e of sub-section 22 of section 02 be calculated on the net debit balance which should be done after cumulatively taking into consideration the implied daily interest on the daily balances of current account maintained with the company - AEPL.*
- 3. The appellant prays to be allowed to add, amend, modify, rectify, delete, and raise any grounds of appeal at the time of hearing.”*

5. Facts of the case, in brief, are that the assessee is an individual and director of M/s. Ajinkya Electromelt Private Limited, M/s Shraddha Ispat Private Limited, M/s. Indrayani

Ferrocost Private Limited and M/s. 'C' Cure Building Products Pvt. Ltd. The assessee is deriving income as salary from above companies, income from partnership firm, income from capital gains and income from other sources. Return of income was furnished u/s 139(1) of the IT act on 08.03.2022 declaring income of Rs.3,86,83,450/- and the same was processed by CPC u/s 143(1) of the IT Act on 11.04.2022. Subsequently, search & seizure action u/s 132 of the IT Act was conducted on 25.08.2021 at the premises of the assessee. The case of the assessee was selected for complete scrutiny and statutory notices u/s 143(2) & 142(1) of the IT Act and show cause notice respectively were issued to the assessee. During the course of assessment proceedings, the Assessing Officer found that the assessee is a shareholder of not less than 10% of the total shares of the company Ajinkya Electromelt Pvt. Ltd. and there was net debit balance of Rs.76,73,718/- in the Ledger Account of the assessee appearing in the books of Ajinkya Electromelt Pvt. Ltd. and the above company has balance of accumulated profits of Rs.23,50,16,522/- as on 31-03-2020 and of Rs.34,30,04,483/- as on 31-03 2021. Therefore, a show cause notice was issued to the assessee and he was requested to explain why addition of Rs.76,73,718/- should not be

made in his hands as deemed dividend u/s 2(22)(e) of the IT Act. After considering the reply and submissions of the assessee, the Assessing Officer completed the assessment proceedings u/s 143(3) of the IT Act and vide order dated 30.12.2022 determined income of the assessee at Rs.4,63,57,168/- as against income of Rs.3,86,83,450/- returned by the assessee. The above assessed income includes additions of Rs.76,73,718/- being deemed dividend u/s 2(22)(e) of the IT Act.

6. Being aggrieved with the above assessment order, the assessee preferred an appeal before Ld. CIT(A). After considering the reply and submissions of the assessee, Ld. CIT(A) dismissed the appeal filed by the assessee by observing as under :-

*“6. I have considered the facts of the case and the submissions made by the appellant. There is no dispute on the facts that the appellant is holding more than 10% of shares in M/s. Ajinkya Electromelt Pvt. Ltd. The appellant has also not disputed that there was debit and credit entries in the appellant's account maintained in the books of M/s. Ajinkya Electromelt Pvt Ltd. It is also not under dispute that as on 03.08.2020, there was a net debit balance of Rs.76.73.718/- in the appellant's account maintained with the said company The only argument of the appellant is that he was maintaining a running current account with the company and was advancing money to the company as and when required by the company. The appellant has stated that on most of the days of the year, there was a net credit balance and it is only for few days, the said debit balance occurred. The appellant has further stated that during the covid pandemic, there was a disruption in the business operation of the company and it was not getting new orders from the customers. As a result, the company had unutilized surplus funds which were temporarily given to the appellant for a short period. The appellant has not been benefitted from said transaction, Since the net*

*debit balance in the appellant's account maintained by the company was only for a short period, no income u/s. 2(22)(e) is taxable as held by Hon'ble ITAT, Chennai Bench in the case of Venkatachalam Mohan 155 taxmann.com 648 (Chennai Trib.).*

7. *A perusal of the said decision of the Hon'ble ITAT, Chennai Bench suggests that in this case, the debit balance occurred due to inadvertent errors and the said payment to the assessee was on account of debt owed to assessee's mother, showing a credit balance in her ledger account. However, in the present case, there is no such error committed by the company. In fact, as per the submission submitted before me, the company was having surplus funds which was given to the appellant as the company was not able to utilize the said funds. Thus, the facts of the present case are distinguishable from the facts of the decision relied upon by the appellant.*

8. *On the other hand, the judgement of Hon'ble Supreme Court in the case of Miss P. Sarada vs CIT 96 Taxman 11 (SC) is clearly applicable to the facts of the case wherein the Hon'ble Supreme Court has held that some adjustment on the last date of accounting year will not alter the position that the shareholder had withdrawn money from the company and accordingly the Hon'ble Supreme Court held that the assessee received notional dividend on various dates when she withdrew the amount from the company. The relevant portion of this judgement is as under:-*

*“7. Section 2(22)(e) as it stood at the material time defined dividend to include 'any payment by a company not being a company in which the public are substantially interested, of any sum by way of advance Dr loan to a shareholder, being a person de jure which is the foundation of the statutory fiction incorporated in section 2(6A)(e) of 1922 Act. There was no dispute that the company was a controlled (private limited) company in which the public were not substantially interested within the meaning of section 23A of 1922 Act. Further, the assessee was admittedly a shareholder and managing director of that company. It was also beyond controversy that at all material times, the company possessed 'accumulated profits' in excess of the amount which the assessee-shareholder was paid during the previous year. The ITO found that on 1-1-1956, the accumulated profits of the company amounted to Rs. 6,83,005 while from 11-1-1956, to 12-11-1956, the assessee received in cash from time to time from the company payments aggregating Rs. 4,97,442. After deducting the opening credit balance and some other items credited to his amount, the ITO found that in the previous year the assessee-shareholder had received a net payment of Rs. 2,72,703 by way of loan or advance from the company. The company's business was not money-lending and it could not be said that the loans had been advanced by the*

*company in the ordinary course of its business. Thus, all the factual conditions for raising the statutory fiction created by sections 2(6A)(e) and 12(1B) of 1922 Act appeared to have been satisfied in the instant case.*

*As the taxability of an income is related to its receipt or accrual in the previous year, the moment a dividend is received, whether it is actual dividend declared by the company or is a deemed dividend, income taxable under the residuary head, 'income from other sources', arises. The charge being on accrual or receipt the statutory fiction created by section 2(6A)(e) of 1922 Act and section 12(1B) of 1922 Act would come into operation at the time of the payment by way of advance or loan, provided the other conditions are satisfied.*

*For the foregoing reasons, it could be said that payment by a company not being a company in which the public were substantially interested within the meaning of section 23A of 1922 Act, of any sum by way of advance or loan to a shareholder, not exceeding the accumulated profits possessed by the company was to be deemed as his dividend under section 2(6A)(e) read with section 12(1B) of the 1922 Act, even if that advance or loan was subsequently repaid in its entirety during the relevant previous year in which it was take.*

*who has a substantial interest in the company to the extent to which the company possesses accumulated profits: in the instant case, there is no dispute that the appellant had a substantial interest in the company. The nature of the company is also not in dispute.*

*8. From the facts, as stated hereinabove, it appears that the withdrawals made by the appellant from the company amounted to grant of loan or advance by the company to the shareholder. The legal fiction came into play as soon as the monies were paid by the company to the appellant. The assessee must be deemed to have received dividends on the dates on which she withdrew the aforesaid amounts of money from the company. The loan or advance taken from the company may have been ultimately repaid or adjusted but that will not alter the fact that the assessee, in the eye of law, had received dividend from the company during the relevant accounting period.*

*9. It was held by this Court in the case of Smt. Tarulata Shyam v. CIT [1977] 108 ITR 345 that the statutory fiction created by section 2(6A)(e) of the Indian Income-tax Act, 1922 would come into operation at the time of the payment of advance or loan to a shareholder by the company. The Legislature had deliberately not made the subsistence of the loan or advance, or its remaining outstanding, on the last date of the previous year*

*relevant to the assessment year a prerequisite for raising the statutory fiction.*

*10. In the instant case, excess withdrawals were made by the assessee on various dates between 3-7-1972 to 22-3-1973 when the account of Mahesh had not been debited. The assessee's account was consequently overdrawn. On the very last day of accounting year some adjustment was made but that will not alter the position that the assessee had drawn a total amount of Rs. 93,027 between 3-7-1972 to 22-3-1973 from the company when her account with the company did not have any credit balance at all. That means these advances made by the company to the assessee will have to be treated as deemed dividends paid on the dates when the withdrawals were allowed to be made. Subsequent adjustment of the account made on the very last day of the accounting year will not alter the position that the assessee had received notional dividends on the various dates when she withdrew the aforesaid amounts from the company.*

*9. Further, the Hon'ble Supreme Court in the case of Smt. Tarulata Shyam vs. CIT 108 ITR 345 (SC) has observed as under:-*

*Firstly, it is important to note that the Parliament has itself in the exercise of its legislative judgment raised a conclusive presumption, that in all cases where loans are advanced to a shareholder in a private limited company having accumulated profits, the advances should be deemed to be the dividend income of the shareholder. It is this presumption juris et*

*10. The above discussion suggests that if other conditions as provided u/s. 2(22)(e) of the Act are satisfied and the money withdrawn by the shareholder is in the nature of loan or advance, the provisions of section 2(22)(e) kicks in as soon as the money is withdrawn by the shareholder from the company. The duration for which the money remains with the shareholder is immaterial. Further, it is also immaterial whether the shareholder derived any profit from the said money withdrawn from the company. Considering the facts of the case and the above judgements of Hon'ble Supreme Court, it is held that the provisions of section 2(22)(e) shall be applicable to the facts of the present case. Since the appellant has not disputed the quantum of net debit balance amounting to Rs.76,73,718/-, the addition of Rs. 76,73,718/- u/s. 2(22)(e) of the Act is upheld. The ground no. 1 raised by the appellant is DISMISSED.*

*11. Vide ground no. 2, the appellant has taken an alternate ground wherein it has been claimed that the company paid an interest of Rs. 13,52,573/- to the appellant, at the end of the year. The appellant has claimed that even though the said interest was credited to his account at year-end, however same is required to be computed on daily basis.*

*The appellant has accordingly requested to give the benefit of said interest while computing the net debit balance as on 03.08.2020.*

*12. I have considered the above contention of the appellant. As per the ledger account submitted by the appellant, there is no interest entry till the end of the year and the interest has been credited to the appellant's account only on 31.03.2021. It is further seen that the TDS on such interest was deducted by the company on 31.03.2021. In such situation, the appellant cannot claim that the interest was paid to him on 03.08.2020. In such situation, benefit of interest payable till 03.08.2020 as claimed by the appellant, cannot be allowed. Accordingly, the ground no. 2 raised by the appellant is DISMISSED.*

*13. The ground no. 3 is of general nature and does not require any specific adjudication.*

*14. To conclude, the appeal of the appellant for A.Y.2021-22 stands DISMISSED.”*

7. It is the above order against which the assessee is in appeal before this Tribunal.

8. We have heard Ld. counsels from both the sides and perused the material available on record including the paper book furnished by the assessee. In this regard, we find that the assessee holds more than 10% shares of M/s. Ajinkya Electromelt Pvt. Ltd. and on 03.08.2020 there was debit balance of Rs.76,73,718/- in the name of assessee for a total period of 8 days, in the books of M/s. Ajinkya Electromelt Pvt. Ltd., therefore the Assessing Officer added the above debit balance in the income of the assessee as deemed dividend u/s 2(22)(e) of the IT Act, since the above company was having accumulated profit of more than rupees

Rs.34,30,04,483/- as on 31-03-2021 and the action of the Assessing Officer was also confirmed by Ld. CIT(A).

9. With regard to two grounds raised by the assessee before the bench, we find that similar grounds were raised before Ld. CIT(A) & regarding ground no.1 the order passed by Ld. CIT(A) is justified and we do not find any error in the above order passed by Ld. CIT(A), accordingly the same is confirmed and ground no.1 raised by the assessee is dismissed. However, we find that with regard to ground no.2, the finding given by Ld. CIT(A) does not appear to be correct. Ld. CIT(A) rejected the above ground on the basis that TDS on interest payment was made in the last Quarter of the year, therefore the benefit of accrued interest cannot be allowed for any earlier period. We do not find favour with the above finding given by Ld. CIT(A) since it was the alternate contention of Ld. counsel of the assessee in ground no.2 that there was net debit balance of Rs.76,73,718/- only for a period of 8 days and for remaining period there was always credit balance in the name of the assessee in the books of M/s Ajinkya Electromelt Pvt. Ltd. on which the assessee was paid interest by the above company. In this regard, it was contended that the benefit of accrued interest on credit balance on the day to day basis should have been taken into

consideration for determining the exact amount of net debit balance and the consequential net debit balance may be added to the income of the assessee u/s 2(22)(e) of the IT Act as deemed dividend. We find force in the above alternate contention of the assessee and accordingly deem it appropriate to set-aside the order passed by Ld. CIT(A) with regard to ground no.2, and direct the Assessing Officer to re-compute the net debit balance after providing reasonable opportunity of hearing to the assessee [*For the purposes of addition of deemed dividend as per section 2(22)(e) of the IT Act*] after allowing due benefit of accrued interest on the credit balance standing in the name of the assessee in the books of accounts of the company M/s Ajinkya Electromelt Pvt. Ltd., calculated on a day to day basis. Accordingly, the alternative ground no.2 raised by the assessee is allowed.

10. In the result, the appeal filed by the assessee in ITA No.2757/PUN/2024 is partly allowed.

**ITA No.2758/PUN/2024 :**

11. Since identical facts and issues are involved in the appeal of the assessee in ITA No.2758/PUN/2024 with the appeal of the assessee in ITA No.2757/PUN/2024 therefore, our decision in ITA No.2757/PUN/2024 shall apply *mutatis mutandis* to the appeal of

the assessee in ITA No.2758/PUN/2024. Accordingly, the appeal of the assessee in ITA No.2758/PUN/2024 is also partly allowed.

12. In the result, the appeal filed by the assessee in ITA No.2758/PUN/2024 is partly allowed.

13. To sum up, both the above captioned appeals filed by the two different assesseees are partly allowed.

Order pronounced on this 10<sup>th</sup> day of April, 2026.

Sd/-  
**(R. K. PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 10<sup>th</sup> April, 2026.

*Sujeet/DOC*

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Pune-11.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Assistant Registrar  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.