

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

BEFORE SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER
AND
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.540 & 541/PUN/2019
निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15

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| Dhanada Corporation Ltd., Dhanada 16/6, Erandavan Housing Society, Plot No.8, Patwardhan Baug, Pune- 411004. PAN : AAACV9273B | Vs. | ACIT, Circle-1, Aurangabad. |
| Appellant | | Respondent |

Assessee by : None
Revenue by : Shri Ramnath P. Murkude

Date of hearing : 13.10.2022
Date of pronouncement : 02.11.2022

आदेश / ORDER

PER S. S. VISWANETHRA RAVI, JM:

Both these appeals by the assessee against the separate orders dated 30.01.2019 passed by the CIT(A)-1, Aurangabad for the assessment years 2013-14 and 2014-15.

2. It is noted that this Registry issued notice dated 09.09.2022 intimating the assessee in respect of date of hearing on 13.10.2022 by Registered Post with Acknowledge Due (RPAD). The said notice returned un-served with an endorsement dated 13.09.2022

that “addressee left”. The assessee called absent and said *ex-parte*. Therefore, we proceed to hear the ld. DR and pass a consolidated order by examining the material available on record.

3. We find no representative on behalf of the assessee nor any application for seeking adjournment.

4. Since the issue raised in both the appeals are similar based on same identical facts therefore, with the consent of ld. DR, we proceed to hear both the appeals together.

5. First, we shall take up ITA No.540/PUN/2019 for A.Y. 2013-14.

6. Brief facts relating to case are that the assessee is a company engaged in the business of hotel and derivative trading. The assessee filed return of income declaring total income at Rs.Nil and the said return was processed u/s 143(1) of the Act. Under scrutiny, a notice u/s 143(2) and 142(1) of the Act were issued. In response to said notices, the assessee filed acknowledgement of income tax return, computation of total income and annual report. On examination of such information filed by the assessee, the Assessing Officer *inter alia* making additions under section 36(1)(iii) and section 14A of the Act, but, however, allowed set-off of brought forward losses and unabsorbed depreciation for A.Y. 2009-10 and

2011-12 and determined the total income at Rs.Nil. The assessee preferred an appeal before the CIT(A), it is noted for non-appearance of assessee, the CIT(A) considering the material evidences available on record confirmed the order of the Assessing Officer. Having aggrieved by the order of CIT(A), the assessee is in appeal before us.

7. Ground of appeal no.1 raised by the assessee challenging the action of the CIT(A) in treating advances paid by the assessee to Shri Laxman Kulkarni for non-business purpose and disallowance of interest at the rate of 15% u/s 36(1)(iii) of the Act.

8. We note that during the course of assessment proceedings, the Assessing Officer found that the assessee has given advance of Rs.3,91,00,000/- to Shri Laxman Kulkarni and no interest charged on the same. According to Assessing Officer, the said advance has not been given for business purpose of the assessee but advanced for investment in properties. On perusal of the assessment order, we note that the Assessing Officer asked the assessee as to why interest on the said investment should not be disallowed u/s 36(1)(iii) of the Act. We find no submissions whatsoever made by the assessee to the show-cause issued by the Assessing Officer. The Assessing Officer proceeded to disallow of interest at the rate of

15% placing reliance in the case of Ravindra Singh Arora vs. ACIT reported in 53 SOT 124 (Hyderabad) and made disallowance of Rs.58,65,000/- (Rs.3,91,00,000/- @ 15%) on account of interest on loans/advances for non-business purpose. It is noted from the impugned order that the CIT(A) has given 13 notices intimating dates for hearing which are reproduced in page no.2 to 4 of impugned order. On an examination of such details, we find the assessee through its authorized representative sought adjournment from time to time on the ground that the relevant documents were seized by the Pune Police. Having no evidence forthcoming from the assessee, the CIT(A) having given ample time of two years to the assessee, confirmed the order of the Assessing Officer basing on the material evidence available on record along with the statement of facts filed by the assessee with Form No.35.

9. Before us, it is noted from the record that the assessee filed the appeal memo in Form No.36 on 05.04.2019 and appeal was fixed for hearing on 12.05.2022. There was no proceeding on 12.05.2022, the appeal was adjourned to 20.07.2022. It is noted from the order sheet that from 20.07.2022, again on 25.08.2022 and today on 13.10.2022 there was no appearance on behalf of the assessee, but the appeal was adjourned from 20.07.2022 to

13.10.2022 for non-appearance of assessee. Therefore, there was no material placed on record by the assessee nor appeared through its authorized representative. Therefore, considering the material available on record, having no explanation offered by the assessee, we confirm the order of the CIT(A). We totally agree with the reasons recorded by the CIT(A) vide para 3 of the impugned order. Thus, ground of appeal no.1 raised by the assessee is dismissed.

10. Ground of appeal no.2 raised by the assessee challenging the action of the CIT(A) in confirming the disallowance made by the Assessing Officer u/s 14A r.w. Rule 8D of the I.T. Rules.

11. We note that the assessee made average investments of Rs.5,16,69,494/-. The assessee was asked to show cause as to why the provisions of section 14A r.w. Rule 8D should not be applied. It appears from para 5 of the assessment order that the assessee filed submissions but, however, not found acceptable to the Assessing Officer. Further, it is noted no details were furnished by the assessee regarding the profits accumulated by the assessee and its utilization for investments in subsidiary company. Further, the Assessing Officer by applying Rule 8D(2)(ii) and 8D(2)(iii) made disallowance u/s 14A for an amount of Rs.15,69,315/- [Rs.13,10,967/- under Rule 8D(2)(ii) and Rs.2,58,348/- under Rule

8D(2)(iii)]. As discussed above in ground of appeal no.1, no evidences whatsoever brought on record by the assessee before the CIT(A) and the CIT(A) proceeded to confirm the order of the Assessing Officer for non-appearance of assessee by considering the material evidence available on record along with statement of facts.

12. Before us, no evidence in support of its claim were filed along with Form No.36 and in the absence of which, we have no option, except to confirm the order of the CIT(A). We agree with the reasons recorded by the CIT(A) vide para 3.1 of the impugned order. Therefore, the order of the CIT(A) is justified and ground of appeal no.2 raised by the assessee is dismissed.

13. In the result, the appeal of the assessee in ITA No.540/PUN/2019 for A.Y. 2013-14 is dismissed.

14. Now, come to the appeal in ITA No.541/PUN/2019 for A.Y. 2014-15.

15. We find the ground of appeal no.1 and 2 raised by the assessee were similar to the ground of appeal no.1 and 2 filed in ITA No.540/PUN/2019 for A.Y. 2013-14. We have considered the material available on record in respect of ground of appeal no.1 and 2 in appeal for A.Y. 2013-14 in the aforementioned paragraphs. Since we have taken a view in dismissing the said grounds of appeal

no.1 and 2 raised by the assessee for A.Y. 2013-14, the ground of appeal no.1 and 2 filed in this appeal for A.Y. 2014-15 are liable to be dismissed. Thus, the ground of appeal no.1 and 2 raised by the assessee are dismissed.

16. In the result, the appeal of the assessee in ITA No.541/PUN/2019 for A.Y. 2014-15 is dismissed.

17. To sum up, both the appeals of the assessee are dismissed.

Order pronounced on this 02nd day of November, 2022.

Sd/-
(G. D. PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 02nd November, 2022.

Sujeet

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.