

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

ITA No. 1239/Ahd/2019
Assessment Year 2013-14

The ITO, Ward-2(1)(3), Ahmedabad (Appellant)	Vs	M/s. Iris Products Pvt. Ltd., 53, Shrimali Society, Navrangpura, Ahmedabad PAN: AABCA5945J (Respondent)
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**Assessee by: Shri Tushar Hemani, Sr. Advocate &
Shri Parimalsinh B. Parmar, A.R.**
Revenue by: Ms. Saumya Pandey Jain, Sr. D.R.

Date of hearing : 06-09-2023
Date of pronouncement : 13-09-2023

आदेश/ORDER

This is an appeal filed against the order dated 23-05-2019 passed by ld. CIT(A) for assessment year 2013-14.

2. The grounds of appeal are as under:-

- “1. The Ld. CIT(A) has erred in law and on facts in deleting the disallowance of Rs 14,18,000/- incurred towards fees for education of Director u/s 37 of IT Act.*
- 2. The appellant craves leave to amend alter any ground or add a new ground, which may be necessary.”*
3. The assessee filed original return of income for assessment year 2013-14 on 28-09-2013 declaring total income of Rs. 26,79,105/-. The scrutiny assessment u/s. 143(3) of the Act was completed vide order dated 08-01-2016, determining total income at Rs. 28,76,960/-. On verification of details, the Assessing Officer observed that the assessee claimed an expenditure of Rs. 14,18,000/- towards education fees of director's son under the head salary and wages revealed in Annexure B of 3CD report. The Assessing Officer further observed that assessee had said vide letter dated 26-11-2015 that the fees was paid to Director Shri Anang Lalbhai for the post graduate course of his son Shri Arjun Lalbhai Rutgers, the State University of New Jersey for assessment year 2013-14. Shri Arjun Lalbhai is a major shareholder in the assessee company having 43.44% shareholding and is director in the company. The Assessing Officer after taking cognizance of the reply made addition of Rs. 14,18,000/- for disallowance of expenditure on education to Director u/s. 37.

4. Being aggrieved by the assessment order, the assessee filed appeal before the Id. CIT(A). The Id. CIT(A) partly allowed the appeal of the assessee.

5. The Id. Departmental Representative submitted that the education fees of the director has not direct nexus with the business and therefore the deletion by the Id. CIT(A) of the disallowances of expenditure on education is not justified. The Id. Departmental Representative relied upon the order of the assessment order.

6. The Id. Authorized Representative relied upon the order of the Id. CIT(A) and further submitted that it is not the director's son but it is the director himself has opted for education for the betterment of the business structure and the progress of the company's business. The Id. Authorized Representative relied upon the decision of CIT vs. Naidunai News and Networking Pvt. Ltd. (2012) 210 Taxman 73 (MP). The Id. Authorized Representative submitted that the assessee immediately joined assessee company after completing MBA and has taken charge of the assessee company. Tortilla Chips project was ready to be commissioned for the global market specially Europe and USA and therefore the completion of the post graduate course has benefited the assessee company substantially. The Id. Authorized Representative submitted reopening is merely based on change of opinion and therefore the assessee as per rule 27 of the Income Tax Appellate

Tribunal Rules, 1963 challenging the validity of reopening u/s. 147 of the Act. The ld. Authorized Representative relied upon the decision of CIT vs. Kalvinator India Ltd. 320 ITR 569 (SC), AIA Engineering 138 taxman.com 534 (Gujarat), Sujag Fine Chemicals Pvt. Ltd. 77 taxman.com 258 (Guj) as well as following decisions:

- > PCIT vs. Sun Pharmaceutical Industries Ltd. – 408 ITR 517 (Guj);
- > Dahod Sakhari Kharid Vechan Sangh Ltd. - 282 ITR 321 (Guj);
- > CIT vs. India Cements Ltd. - 424 ITR 410 (Madras);
- > Peter Vaz vs. CIT- 436 ITR 616 (Bom);
- > CIT v. Commonwealth Trust (India) Ltd. - 221 ITR 474 (Kerala);
- > Sanjay Sawhney v. PCIT-273 Taxman 332 (Del);

6. Heard both the sides and perused all the relevant material available on record. As relates to application under Rule 27 of the Income Tax Appellate Tribunal Rules, 1963, the reopening itself is not justified as the assessee has given all the details related to the education fees of the director during the assessment proceedings passed u/s. 143(3) of the Act. In fact, it is mere change of opinion. Thus, application filed by the assessee under Rule 27 of the Income Tax Appellate Tribunal Rules, 1963 is allowed. The ld. CIT(A) has given a detailed finding and in fact the assessee company has funded the post graduation studies of its one of the directors who was very much employed and has acquired his post graduate degree qualification for

the benefit of the business of the company. Thus, the appeal of the Revenue is dismissed.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 13-09-2023

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 13/09/2023

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