

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI C.N. PRASAD, JUDICIAL MEMBER  
&  
M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.7902/Mum/2019  
(Assessment Year :2014-15)**

**&  
ITA No.7903/Mum/2019  
(Assessment Year :2015-16)**

M/s. Chandri Papers and Allied Products Pvt. Ltd., 404, 4 <sup>th</sup> Floor Hafzain Building, 129/131 Kazi Sayed Street Masjid Bunder (W) Mumbai – 400 003	Vs.	ACIT 3(1)(2) Aayakar Bhavan Mumbai – 400 020
<b>PAN/GIR No.AABCC5709J</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Haridas Bhat
Revenue by	Ms. Shreekala Pardeshi
<b>Date of Hearing</b>	<b>27/05/2021</b>
<b>Date of Pronouncement</b>	<b>02/06/2021</b>

**आदेश / ORDER**

**PER M. BALAGANESH (A.M):**

These appeals in ITA No.7902/Mum/2019 & 7903/Mum/2019 for A.Yrs.2014-15 & 2015-16 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-8, Mumbai in appeal No.CIT(A)-8/IT-481/16-17, CIT(A)-8/IT-82/17-18 dated 23/10/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961

(hereinafter referred to as Act) dated 30/11/2017 by the Id. Asst. Commissioner of Income Tax 3(1)(2), Mumbai (hereinafter referred to as Id. AO).

1.1. With the consent of both the parties, the appeal for A.Y.2014-15 is taken as the lead case and the decision rendered thereon would apply with equal force for A.Y.2015-16 also, in view of identical facts, except with variance in figures.

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in disallowing the rent paid to Smt. Shweta Rasiwasia amounting to Rs.28,89,000/-. The interconnected issue involved thereon is whether the Id. CIT(A) was justified in disallowing the interest proportionately u/s.36(1)(iii) in respect of security deposits paid to director's wife for taking her bungalow on lease.

3. We have heard rival submissions and perused the materials available on record. We find that assessee company is engaged in the business of manufacturing and importing of various petroleum products like process oils, waxes and trading of PVC resins, petro chemicals and base oils. The return of income for the A.Y.2014-15 was filed by the assessee on 29/11/2014 declaring total income of Rs.47,09,087/- under normal provisions of the Act and book profit of Rs.34,53,011/- u/s. 115JB of the Act. During the course of assessment proceedings, various details in respect of claim of expenditure made in the accounts had been called for and examined by the Id. AO. The Id. AO observed that assessee has paid a sum of Rs.28,89,000/- as rent to Smt. Shweta Rasiwasia, wife of

director Shri Aditya Rasiwasia in respect of a guest house belonging to Smt. Shweta Rasiwasia which was taken on lease by the assessee company for its business purposes. The assessee furnished the copy of registered lease agreement entered into with the wife of director in support of the rent payment and also submitted that the bungalow belonging to the wife of director situated at Lonavala was used as the guest house for staff and customers of the assessee company and since the said property had been used for the purpose of business, the rent paid amounting of Rs.28,89,000/- would be an allowable deduction. The assessee also pointed out that the lease agreement is for a period of 55 months i.e. from 01/11/2011 to 31/05/2016. We find that the Id. AO observed that since the bungalow is owned by director's wife, there is all possibility of utilisation of the same for their personal use and accordingly, proceeded to disallow the entire expenditure of Rs.28,89,000/- towards rent as not for the purpose of business.

3.1. For the said property, the assessee had also paid security deposit of Rs.91,50,000/- to the wife of director. The Id. AO observed that since the property *per se* is not utilised for the purpose of business of the assessee, there is no business expediency to pay security deposit of Rs.91.50 lakhs to the wife of director to the said property. The Id. AO observed that since the assessee had interest bearing funds in its financial statements, he proceeded to disallow the interest @12% on a proportionate basis to the extent of security deposit of Rs. 91.50 lakhs treating it to be for non-business purposes. Accordingly, a sum of Rs.10,98,000/- (Rs.91,50,000 x 12%) was sought to be disallowed towards interest expenditure as not meant for the purpose of business.

3.2. Before the Id. CIT(A), the assessee submitted that it has taken the bungalow on lease at Lonavala which is used as guest house for staff and customers for the business activity of the assessee which had helped the assessee in getting high employee morale and good business relations with the customers. It was also pointed out that assessee had sufficient interest free funds in the form of share capital and free reserves to make this security deposit and hence, it could be safely presumed that the security deposit of Rs.91.50 lakhs was made out of the interest free funds of the assessee. Accordingly, it was pleaded that no interest need to be disallowed u/s.36(1)(iii). Similarly, it was also pleaded that the rent was paid to wife of director for the very same property situated at Lonavala based on the registered lease agreement for a period of 55 months commencing from 01/11/2011 to 31/05/2016. It was specifically brought to the notice of the Id. CIT(A) that only a portion of the property was leased out to the assessee company and that a small portion which has been used for personal use had been retained by the wife of director. Hence, there is no question of any personal usage of the property being debited in the books of the assessee company. The Id. CIT(A) however, disagreed with the contentions of the assessee and upheld the action of the Id. AO.

3.3. We find that assessee had taken property on lease for the purpose of its business. The said property is situated at Lonavala. The said property belongs to the wife of director of the assessee company. The property has been taken on lease based on a registered lease agreement entered into with the wife of director of the assessee company. We find that Smt. Shweta Rasiwasia had retained some portion of the property for

her personal use and had leased out the remaining portion to the assessee company and had derived lease rental income thereon. The said property had been taken on lease by the assessee for housing its staff and business guests who visit Lonavala and which inturn had increased the morale of the employees and assessee was benefitted with good business relations with the customers of the assessee company. Hence, the business nexus of taking that property on lease and using it for the purpose of utilisation by its staff and customers of the assessee had been proved and hence cannot be held to be for non-business purposes. However, the Id. AR before us agreed for an adhoc disallowance of 20% that could be made for the purpose of personal usage in view of common facilities that could be attributed for both personal as well as business purposes. Accordingly, we deem it fit to disallow only 20% of Rs.28,89,000/- on account of rent.

3.4. We have already held that the said Bungalow situated at Lonavala owned by wife of director had been taken on lease by the assessee company for the purpose of its business. Hence, it is quite normal to pay security deposit for the said property to the landlord. This payment of security deposit cannot be treated as 'meant for non-business purposes'. Hence, there is no question of making any proportionate disallowance of interest u/s.36(1)(iii) of the Act. Hence, we direct the Id. AO to delete the disallowance made on account of interest amounting of Rs.10,98,000/-.

3.5. Accordingly, the grounds raised by the assessee are partly allowed.

**4. In the result, both the appeals of the assessee are partly allowed.**

Order pronounced on 02/06/2021 by way of proper mentioning in the notice board.

**Sd/-**  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

Mumbai; Dated 02/06/2021  
KARUNA, *sr.ps*

**Sd/-**  
**(M.BALAGANESH)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai