

IN THE INCOME TAX APPELLATE TRIBUNAL

"H" BENCH, MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA no.544/Mum./2023

(Assessment Year : 2013-14)

HVD Distributors Pvt. Ltd.
202, Jyoti Chambers
372, Narshi Natha Street
Masjid Bunder, Mumbai 400 009
PAN – AACCH3859F

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-7(1)(2), Mumbai

..... Respondent

Assessee by : Shri Ketan Vijani
Revenue by : Shri Rameshwar P. Meena

Date of Hearing – 24/05/2023

Date of Order – 30/05/2023

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The captioned appeal has been filed by the assessee challenging the impugned order dated 29/12/2022, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2013-14.

2. In this appeal, the assessee has raised the following ground:–

"The appellant prays to allow the sum of Rs.23,43,447, being directors education expenses as wholly and exclusively incurred for the purpose of business."

3. The brief facts of the case as emanating from the record are: The assessee is a company and is engaged in the business as importer and exporter of bearings and components. For the year under consideration, the assessee filed its return of income on 21/09/2013 declaring a total income of Rs.49,04,500. The return filed by the assessee was selected for scrutiny and statutory notices under section 143(2) as well as section 142(1) were issued and served on the assessee. During the assessment proceedings, the assessee was asked to submit documents in support of its claim of education expenses, such as details of the Director who has undertaken the course, copy of the board's resolution, course attended, the benefit derived by the company from such course, bank statement reflecting such payments, certificate of completion of such course, etc. On perusal of the details, it was observed that expenses were incurred for the further study of Mr. Harsh Dhami, Director from the Royal Holloway University of London. In support of its claim, the assessee submitted that the course was sponsored with the condition that Mr. Harsh Dhami will work for at least 5 years for the assessee company. Therefore, it was claimed that the expenses are allowable as business expenditure under section 37(1) of the Act. The Assessing Officer ("AO") vide order dated 29/02/2016 passed under section 143(3) of the Act did not agree with the submissions of the assessee on the basis that the assessee has not given any details of the exact benefit derived by sponsoring the Director aforesaid course. Further, it was held that the assessee has failed to provide

any certificate or details of completion of the course, proof of company's growth and increase in sales, and the resolution passed in board meeting. The AO also held that the Director has gone abroad for training in general management, which did not pertain to the assessee's line of business. The AO held that the assessee has failed to prove that the expenses were incurred '*wholly and exclusively*' for the business purpose to be allowed under section 37(1) of the Act. Accordingly, the AO disallowed the education expenses to the tune of Rs.23,43,447 claimed by the assessee.

4. The learned CIT(A) vide impugned order dismissed the appeal filed by the assessee by placing reliance upon the decision of the Hon'ble Karnataka High Court in Mac Explotec Pvt. Ltd. v/s CIT, [2006] 286 ITR 378 (Karn.). Being aggrieved, the assessee is in appeal before us.

5. We have considered the submissions of both sides and perused the material available on record. The only dispute raised by the assessee in the present appeal is against the disallowance of the Director's education expenses. As per the assessee, Mr. Harsh Dhami was a graduate in management at the time of his appointment as Director of the assessee company and since the assessee is in the business of export and import, he decided to pursue the postgraduation in Marketing. It is the plea of the assessee that the financial support by the assessee company was subject to the condition that Mr. Harsh Dhami will serve the company for a minimum period of 5 years after completing the study and shall be part of the company's growth and increasing the sale. Since one of the subjects was pertaining to Digital Business and Marketing as per the brochure of the postgraduate

program, i.e. MSc in International Business Management conducted by Royal Holloway University of London, the assessee claimed that the course was for the benefit of the assessee company and thus expenditure was incurred wholly and exclusively for the purpose of business.

6. From the perusal of the said brochure, we find that MSc in International Business Management was aimed to provide postgraduate education in general management to pre-experienced graduates and provide core knowledge of management functions and supplement courses for personal development. Further, as per the course structure, the module includes Economics, Finance and Accounting; Strategy and Ethics in International Business Management; People & Organisation; Digital Business & Marketing; Operational Management, and Professional Business & Research Skills. It is undisputed that the assessee is engaged in the business as an importer and exporter of bearings and components. It is also an accepted position that the assessee is not involved in any manufacturing activity. There is no material available on record that the assessee has any presence outside India. Further, Mr. Harsh Dhami was claimed to be already a graduate in management at the time of his appointment as Director of the assessee company. Therefore, in view of the above, when the assessee's business is merely in the nature of a trader with no presence outside India and its Director was already a graduate in management, no sufficient basis has been brought on record to show how the financial support provided by the assessee to its Director to pursue MSc in International Business Management is wholly and exclusively for the

assessee's business purpose and has a direct relationship with the assessee's business activity.

7. The learned Authorised Representative ("*learned AR*") has placed reliance upon the statement reflecting sales and developments made by Mr. Harsh Dhami, forming part of the paper book from pages 27-32. It was submitted that with the help of Mr. Harsh Dhami, the assessee has achieved a total sales volume of Rs.2,68,41,196 from the period 01/08/2014 to 10/02/2016. From the perusal of the same, it appears to be the normal growth in sales of the assessee in two years and not any exponential growth due to the Director having a postgraduate degree from London. It is evident from the financial statement for the year under consideration that the assessee's Revenue from operations is Rs.8,03,55,513. Further, there is no evidence on record to show how the Director implemented his education in Digital Business & Marketing to benefit the business of the assessee.

8. From the perusal of various decisions relied upon by the learned AR, we find that in those decisions the Hon'ble Courts had allowed the claim of education expenditure since the education for which the expenses were incurred was found to be for the purpose of business and having a direct relationship with the business activity of the taxpayer. However, such is not the facts of the present case, and therefore the decisions relied upon by the learned AR are factually distinguishable.

9. Since, in the present case, the assessee has failed to substantiate that the expenditure was incurred wholly and exclusively for the purpose of

business, therefore, we find no infirmity in the impugned order affirming the disallowance of the Director's education expenditure under section 37(1) of the Act.

10. In the result, the appeal by the assessee is dismissed.

Order pronounced in the open Court on 30/05/2023

Sd/-
B.R. BASKARAN
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 30/05/2023

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai