

आयकर अपीलीय अधिकरण  
कोलकाता 'एसएमसी' पीठ, कोलकाता में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'SMC' BENCH, KOLKATA

डॉ. मनीष बोर्ड, लेखा सदस्य  
एवं  
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य  
के समक्ष

Before

DR. MANISH BORAD, ACCOUNTANT MEMBER  
&  
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER

I.T.A. No.: 1441/Kol/2023  
Assessment Year: 2021-22

*Purnasons Pvt. Ltd.*.....*Appellant*  
[PAN: AABCP 8307 K]

*Vs.*

*ITO, Ward-8(1), Kolkata*.....*Respondent*

**Appearances:**

**Assessee represented by:** Manish Tiwari, FCA.

**Department represented by:** Swapan Kumar Bera, Addl. CIT.

Date of concluding the hearing : April 16<sup>th</sup>, 2024

Date of pronouncing the order : April 29<sup>th</sup>, 2024

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2021-22 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeals)-NFAC, Delhi [in short Id. 'CIT(A)'] dated 30.10.2023 arising out of the assessment order framed u/s 154 of the Act dated 16.01.2023.

2. In order to appreciate the points urged in the instant appeal it is essential to state the brief facts of the case of the assessee. The assessee is a private limited company earning income from commission. The return of income was filed electronically on 29.12.2021. It was successfully e-verified

and processed u/s 143(1) of the Act. In processing the CPC disallowed the deduction claimed by the assessee u/s 80M of the Act worth of Rs. 30 Lakh. The assessee being aggrieved filed for re-processing, but CPC did not make any correction. Ultimately, the assessee filed appeal before Id. CIT(A). Id. CIT(A) after considering the submission and the documents again disallowed the deduction of Rs. 30 Lakh and confirmed the order of the AO.

3. Being aggrieved and dissatisfied with the appeal order, the assessee is now in appeal before this Tribunal.

4. Id. Counsel for the assessee challenges the impugned order by submitting that the order passed by the Id. CIT(A) is arbitrary, erroneous and without going over the Act. Hence, he prayed to set aside the order of Id. CIT(A). He has also drawn the attention of the Tribunal to Section 80M of the Act.

5. On the other hand, Id. D/R opposes the contention and submitted that order of the Id. CIT(A) is well versed and justified.

6. On the rival submission of the Counsels of the respective parties, we have perused the record and found the following facts being an admitted fact:

- i) The assessee as a private limited company received inter-corporate dividend from M/s. Palsons Derma Pvt. Ltd. worth of Rs. 37,12,500/- on 02.02.2021.
- ii) During the assessment year the assessee company distributed dividend amounting to Rs. 30 Lakh to the shareholders.

7. The question comes into the consideration that whether the assessee is entitled to claim deduction worth of Rs. 30 Lakh u/s 80M of the Act.

8. In this context we have gone through Section 80M of the Act which reveals thus:

*“80M. (1) Where the gross total income of a domestic company in any previous year includes any income by way of dividends from any other domestic company or a foreign company or a business trust, there shall, in accordance with and subject to the provisions of this section, be allowed in*

*computing the total income of such domestic company, a deduction of an amount equal to so much of the amount of income by way of dividends received from such other domestic company or foreign company or business trust as does not exceed the amount of dividend distributed by it on or before the due date.*

*(2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-section (1) in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.*

*Explanation.—For the purposes of this section, the expression "due date" means the date one month prior to the date for furnishing the return of income under sub-section (1) of section 139.]*

*47. Inserted by the Finance Act, 2020, w.e.f. 1-4-2021. Prior to its insertion, section 80M, as inserted by the Finance Act, 2002, w.e.f. 1-4-2003, and later on omitted by the Finance Act, 2003, w.e.f. 1-4-2004, read as under:*

*'80M. Deduction in respect of certain inter-corporate dividends.—(1) Where the gross total income of a domestic company, in any previous year, includes any income by way of dividends from another domestic company, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of such domestic company, a deduction of an amount equal to so much of the amount of income by way of dividends from another domestic company as does not exceed the amount of dividend distributed by the first-mentioned domestic company on or before the due date.*

*(2) Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under sub-section (1) in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.*

*Explanation.—For the purposes of this section, the expression "due date" means the date for furnishing the return of income under sub-section (1) of section 139."*

9. In the present case, it reveals from the documents filed that the assessee had received dividend of Rs. 37,12,500/- from another domestic company and distributing the dividend amounting to Rs. 30 Lakh to its shareholder.

10. The second part of Section 80M(1) of the Act states that in the year in which the dividend was received, the assessee company would be allowed a

deduction of an amount equal to and not exceeding the amount of dividend “**distributed**” on or before the due date.

11. In the present case, dividend was paid to the shareholders of the assessee before due date u/s 139(1) of the Act vide cheques dated 31.03.2021 and the due date for filing return of income for the relevant assessment year was 15.02.2022. In this view, assessee is rightly within law to claim deduction u/s 80M of the Act of Rs. 30 Lakh.

12. In the result, appeal filed by the assessee is allowed.

**Order pronounced in the open Court on 29<sup>th</sup> April, 2024.**

Sd/-

**[Manish Borad]**

Accountant Member

Dated: 29.04.2024

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

1. **Purnasons Pvt. Ltd., 10/D/1, Ho-Chin-Minh Sarani, Kolkata-700 001.**
2. **ITO, Ward-8(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

Sd/-

**[Pradip Kumar Choubey]**

Judicial Member

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata