

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC-II' NEW DELHI**

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 4206/Del/2016

Assessment Year: 2012-13

M/S K.B. AGGARWAL, HUF
D-24, VIVEK VIHAR,
DELHI - 110 095

vs. ITO, WARD 55(5)
NEW DELHI

(PAN: AACHK6947C)

(ASSEESSEE)

(RESPONDENT)

Assessee by: Sh. K. Sampath, Adv. & Sh. V.
Raja Kumar, Adv.

Revenue by: Sh. Anil Sharma, Sr. DR

ORDER

This appeal is filed by assessee against the order dated 26.5.2016 passed by the Ld. CIT(A)-19, New Delhi relating to Assessment Year 2012-13 on the following grounds:-

On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in confirming the following additions made by the AO:

1. Rs. 17,85,492/- on account of interest by invoking provision of section 40(a)(ia) of the Income Tax Act, 1961 ignoring the relevant material furnished;
2. Rs. 1,70,177/- on account of loan processing charges treating the same as not related to business.

Both the above actions being arbitrary, erroneous, misconceived and unjust must be quashed with directions for relief.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. During the course of hearing, Ld. Counsel of the assessee stated that assessee has filed all the necessary documentary evidences before the AO as well as before the Ld. CIT(A) which has not been considered by the AO as well as Ld. CIT(A). He requested that the issue in dispute may be set aside to the AO to decide the same afresh, as per law after considering the evidences filed by the assessee. He has filed the Paper Book containing pages 1 to 32 having the copy of Statement of facts and arguments filed before CIT(A) dated 11.5.2016; copy of additional statement of facts and arguments filed before CIT(A) dated 26.5.2016 alongwith lona sanction letter dated 27.5.2011, loan closure and handing over of the original documents letter dated 2.1.2014, copy of conveyance deed of property at D-24, Vivek Vihar, Delhi, General Power of Attorney in favour of Sh. Amitabh Aggarwal, Copy of PAN card of KB Aggarwal, HUF, copy of computation of income for AY 2011-12 of KB Aggarwal, HUF, copy of acknowledgement of filing of VAT return of Drivewell Service Station and copy of application under Rule 46A of the I.T. Rules 1962 alongwith Certificate from M/s Tata Capital Financial Services Ltd. He has also given a Certificate that the papers included in the above compilation were all filed as indicated above i.e. Ld. CIT(A). Hence, he requested that the all the documents in the shape of paper book were not considered, hence, he requested that the issues in dispute may be remitted back to the AO for fresh consideration, under the law, after considering all the

documents and assessee may be granted adequate opportunity of being heard.

4. On the contrary, Ld. DR opposed the request of the Ld. Counsel of the assessee and relied upon the orders of the authorities below. .

5. I have heard both the parties and perused the records. I have gone through the order passed by the revenue authorities especially the impugned order as well as the Paper Book containing pages 1 to 32 having the copy of Statement of facts and arguments filed before CIT(A) dated 11.5.2016; copy of additional statement of facts and arguments filed before CIT(A) dated 26.5.2016 alongwith lona sanction letter dated 27.5.2011, loan closure and handing over of the original documents letter dated 2.1.2014, copy of conveyance deed of property at D-24, Vivek Vihar, Delhi, General Power of Attorney in favour of Sh. Amitabh Aggarwal, Copy of PAN card of KB Aggarwal, HUF, copy of computation of income for AY 2011-12 of KB Aggarwal, HUF, copy of acknowledgement of filing of VAT return of Drivewell Service Station and copy of application under Rule 46A of the I.T. Rules 1962 alongwith Certificate from M/s Tata Capital Financial Services Ltd. In my view, the said documents needs to be examined at the level of the AO in order to decide the issues in dispute afresh.

6. Keeping in view of the facts and circumstances of the case, the issues involved in the present appeal are remitted back to the file of the AO to decide the same afresh, as per law, after giving adequate opportunity of being heard to the assessee. The assessee is also directed to fully cooperate with the AO and did not take any unnecessary adjournment and file all the necessary papers before him to substantiate its case.

7. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the Open Court on 20/01/2017.

Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER

Date 20/01/2017

“SRBHATNAGAR”

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches