

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “D” BENCH

**(BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 1147/AHD/2015
(Assessment Year: 2008-09)**

Shri Hanubhai R. Sanghani, 5, Satyam Bungalow, Satellite, Ahmedabad-380-015	V/S	The Addl. CIT, Range-9, Ahmedabad
(Appellant)		(Respondent)

PAN: ARLPS4790I

**Appellant by : Shri Karan Shah, AR
Respondent by : Shri V.K. Singh, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 10 -01-2018

Date of Pronouncement : 15 -01-2018

PER N.K. BILLAIYA, ACCOUNTANT MEMBER

1. This appeal by the Assessee is preferred against the order of the Ld. CIT(A)-3, Ahmedabad dated 13.02.2015 pertaining to A.Y. 2008-09.

2. The only grievance of the assessee is that the Id. CIT(A) erred in confirming the disallowance of the loan processing charges of Rs. 2,06,170/-.
3. Briefly stated the facts of the case are that the assessee derives income from share profit, interest and remuneration from partnership firms, income from house properties, income from short term & long term capital gain and income from other sources.
4. During the course of the scrutiny assessment proceedings, the A.O. found that the assessee has paid Rs. 2,06,170 towards loan processing charges for SBI Loan and Home Loan taken for construction of self occupied property. The A.O. was of the firm belief that such charges are not allowable as expenditure neither under the head business income nor for income from house property. The A.O. disallowed Rs. 2,06,170/-.
5. Assessee carried the matter before the Id. CIT(A) and vehemently contended that the said charges were paid on the loan borrowed for business purposes. The assessee explained the borrowings vis-à-vis payment of processing charges which did not impress upon the First Appellate Authority. The Id. CIT(A) confirmed the addition.
6. Before us, the Id. counsel for the assessee brought to our notice the revised computation of income for correction of bona fide mistake of treating the interest expenses paid to Kotak Mahindra Bank and State Bank of India as a part of house property which actually should have been deducted from the business income of the assessee, as the funds were utilized for the purposes of the business of the assessee.

7. We have given a thoughtful consideration to the orders of the authorities below. In our considered opinion, the claim of the assessee has not been verified in true perspective. It appears that the A.O. was carried away with the allowability of claim under the head income from house property. It also appears that the amount has been borrowed from Kotak Mahindra Bank and State Bank of India for business purposes and not purchasing house property. In the interest of justice and fair play, we deem it fit to restore the matter to the files of the A.O. The assessee is directed to furnish necessary details demonstrating that the funds were utilized for the purposes of the business. The A.O. is directed to verify the same and decide the issue afresh as per the provisions of the law.
8. In the result, the appeal is treated as allowed for statistical purpose.

Order pronounced in Open Court on 15 - 01- 2018

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER True Copy
Ahmedabad: Dated 15 /01/2018

Sd/-

(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad