

respectively. Further, the assessee admitted loss of Rs.10,04,728/- under the head 'Income from other sources', set off the same against the income from salary and house property and arrived at gross total income of Rs.9,10,777/-. On verification of the information furnished, the AO noticed that the assessee had arrived at the loss after deducting interest paid of Rs. 11,19,167/- to bank against income shown as interest received from bank, profit on mutual fund and tuition fee totalling to Rs.1,77,116/-. The interest of Rs.11,39,167/- was on Housing loan taken from State Bank of Hyderabad for an amount of Rs. 1,13,30,000/- for acquiring Villa at Sy.No.386, Shamshabad Village, Chevella Road, R.R. Dist. The assessee had furnished copy of statement of account from State Bank of Hyderabad, Gunfoundry, Hyderabad for the relevant period. When questioned, about the expenditure incurred to earned income, the A.R. of the assessee submitted that the assessee paid interest to State Bank of Hyderabad on housing loan taken and utilized the premises to conduct the tuitions and received an amount of Rs.1,20,000/- from tuition. The AO observed that the submission of the A.R was not tenable as it was evident from the Arrangement letter-Housing Finance of State Bank of Hyderabad dated 05.07.2010 that the loan was sanctioned to the assessee for the purpose of "purchase/construction/ extension/ Repairs/renovation of new/second-hand residential house/flat/plot of land/purchase of consumer durables/furnishings" at Villa No.1, Plot No.1, It Survey No.386, Shamshabad Village Chevella Road, R.R. Dist. Since there was no correlation between the amount paid to the Bank and the income received from tuitions, the AO rejected the claim of interest expenditure of Rs.11,39,169/- u/s 57 of the Act. Aggrieved with the order of AO, the assessee preferred an appeal before the CIT(A).

3. Before the CIT(A), it was submitted that in the preceding previous year the premises was used for money lending and in the previous year relevant to the assessment year under consideration, it

was used for giving tuitions, therefore, the interest on such loan should be allowed as deduction from interest earned under the head 'Income from other sources. Further, it was submitted that the assessee had purchased the house for the purpose of doing some activity which could generate income for herself and since this was the beginning for the assessee to explore different kind of activity to generate income, the earnings were not very handsome. Otherwise the assessee would have given the house for rent and derived income out of the same. Assessee relied on the decision in the case of CIT Vs. Rajendra Prasad Moody, Calcutta [1978] (1979 AIR 373),

4. After considering the submissions of the assessee, the CIT(A) confirmed the addition made by the AO by observing as under:

05.2 A housing loan amount of Rs.1,13,30,000/- was taken for housing purpose and assessee incurred interest expenditure of Rs.11,39,167/- on housing loan. The assessee had claimed deduction for interest on borrowed capital for A.Y. 2012-13 on the ground that she had run money lending business from there. In that year, a loan had been given to the Company in which she was a Director. Hence, the claim of doing money lending business from the house property was rejected and the net interest expenditure was disallowed. This year, the assessee claims to have run a tuition business on the same premises. The proceeds from the same is stated to be Rs.1.20 lakhs, i.e. Rs.10,000/- per month. The assessee's residence is at Road No.12, Banjara Hills, Hyderabad. The villa in question is situated at Shamshabad Village, i.e., at a distance of over 30 Kms. It is a ridiculous proposition that she should be travelling this distance on day to day basis throughout the year for earning tuition fees of Rs.1.20 lakhs. The claim is prima-facie bogus and is rejected. The disallowance of interest is confirmed. The reliance of the assessee on the decision of Hon'ble Supreme Court in the case of Rajendra Prasad Moody (supra) will not come to assessee's rescue as it is in different context. In that case, the Apex Court had held that when investment is made for earning income then expenditure for earning that income should be allowed irrespective of whether income has been earned or not. In this case, according to the assessee, income was actually earned (tuition fee). Hence decision in that is not applicable to the facts of assessee's case. As regards the question whether the expenditure should

be allowed or not, given the facts of the case, the same has already been discussed and adjudicated."

5. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising the following grounds of appeal:

1. The Assessing Officer ought to have allowed the interest on housing loan which is in the nature of expenditure made towards earning income from other sources like money lending, tuition etc., The Assessee is utilizing the house premises purchased out of Bank loan for the purpose of doing the business of Money Lending activity in the preceding year and for the current year for doing some profession of tuition fees. Therefore the Nexus of Interest income and interest expenditure is matching.

2. The Hon'ble CIT (A) has presumed that "it is ridiculous proposition that the assessee should be travelling distance of about 30 Km on day to day basis throughout the year to earn tuition fees of Rs. 1.20 Lakh." The CIT(A) has not relied on any grounds to support the presumption. In fact the Assessee used to travel along with her Spouse to the factory where her spouse is a Director and is near to Villa where tuitions were taken.

3. The Assessing officer ought to have examined the provisions of Section 57 Carefully about the allowability of Expenditure as examined by the Supreme Court of India in the case of CIT Vs Rajendra Prasad Moody, Calcutta (1978)(copy enclosed) .

"HELD: what sec 57 (iii) requires is that the expenditure must be laid out or expended wholly and exclusively for the purpose of making or earning income"

"if there is some income, however small or meager, the expenditure would be eligible for deduction"

For these and other reasons that may be urged at the time of hearing, the Appellant Assessee prays that the additions made to the Income be deleted."

6. Considered the rival submissions and perused the material facts on record. Assessee claims to have run tuition centre at the place, for which assessee has taken housing loan in the relevant previous year. It is a settled principle that where income is earned from a source, the related expenditure, irrespective of quantum of income, should be

allowed. First of all, assessee has not proved satisfactorily the income earned by running tuition centre, like how many students attended, how many man hours etc., to the satisfaction of the AO, at least, nothing has been brought on record. Secondly, even if assessee runs a tuition centre, the expenditure should be related to the running of tuition centre, like electricity bill, travelling expenses to & fro to the place of tuition etc. For computing the income from the tuition, it is only related cost which is relevant. The interest on housing loan on the property in which tuition centre is located no way connected to the earning of tuition income. Therefore, the contention of the assessee is rejected & accordingly, we uphold the order of CIT(A) and dismiss the grounds raised by the assessee.

7. In the result, appeal of the assessee is dismissed.
Pronounced in the open court on 24th January, 2018.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, Dated: 24th January, 2018

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Copy to:-

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- 3) *CIT(A) – 6, Hyderabad.*
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- 5) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) Guard File