

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA. No. 133/JP/2018
निर्धारण वर्ष/Assessment Years : 2012-13

Shri Manoj Jain, Prop. M/s Maxwell India, F- 946(D) Road No. 14, V.K.I. Area, Jaipur.	बनाम Vs.	The ITO, Ward-4(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABPPJ 0403 N		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से/ Assessee by : Shri Arpit Vijay (C.A.) &
Mr. Apeksha Kalra (Adv.)
राजस्व की ओर से/ Revenue by : Shri. J.C. Kulhari (JCIT)

सुनवाई की तारीख/ Date of Hearing : 28/06/2018
उदघोषणा की तारीख/Date of Pronouncement :21/08/2018

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-2, Jaipur dated 10.11.2017 for the Assessment Year 2012-13 wherein the assessee has taken the following grounds of appeal as under:-

*"1. Under the facts and circumstances of the case the Ld. CIT(Appeal) is not justified in confirming the disallowance of interest expenses of Rs. 9,16,025/- paid to HDFC Bank.
2. Under the facts and circumstances of the case the Ld. CIT(Appeal) is not justified in confirming the lumpsum addition of Rs. 1,00,000/- made on account of low house hold expenses."*

2. In Ground No. 1, the assessee has challenged the disallowance of interest expenses of Rs. 9,16,025/- paid to HDFC Bank. The Id. AR has submitted that during the year under consideration, the assessee has taken a loan of Rs. 71 lakhs from HDFC Bank on 14.03.2011 for meeting the working capital requirement of his firm M/s Maxwell India. It was submitted that Rs. 64,17,000/- was directly credited to the firm's current account on 14.03.2011 and the remaining amount of Rs. 6,08,818/- after deducting disbursement expenses of Rs. 74,182/-, which was disbursed initially in personal saving account of the assessee was subsequently transferred to the current account of M/s Maxwell India on the very next day i.e. 15.03.2011. It was submitted that the entire loan amount was deposited in the current account of M/s Maxwell India proprietorship firm of the assessee and was used for meeting working capital requirement. It was further submitted that from the perusal of the capital account of the assessee maintained in M/s Maxwell India, it can be noted that the loan amount was exclusively used for meeting the working capital of the firm and no amount was taken out from the business after the date of loan disbursement on 15.03.2011. It was further submitted that the immovable properties and other investments as shown in personal balance sheet as on 31.

03.2012 were already held by the assessee before the HDFC loan amount was disbursed. It was accordingly submitted that the AO's contention that the loan amount was used for making investment in immovable properties and investment in shares, mutual funds was not correct.

3. The Id. DR is heard who has relied on the findings of the lower authorities.

4. We have heard the rival contentions and perused the material available on record. We find force in the argument of the Id. AR when the loan amount from HDFC Bank was credited in the firm's current account and subsequently there is no withdrawal by the assessee from the firm's current account for his personal purposes and in the absence of any finding by the Assessing Officer that the funds were diverted to meet non- business expenditure, the interest on the HDFC loan has rightly been claimed by the assessee. It is further noted that in the subsequent assessment years 2013-14 & 2014-15, the assessee has claimed interest paid to HDFC bank and the same has been duly allowed by the Revenue in terms of proceedings completed U/s 143(3) of the Act. In light of the same, the addition so made by the Assessing Officer is hereby deleted. In the result, the ground of appeal is allowed.

5. In Ground No. 2, the assessee has challenged the lump sum disallowance of Rs. 1,00,000/- made by the AO on account of low household expenses. During the course of hearing, the Id. AR has submitted that the assessee has made drawing of Rs. 3,00,000/- which

includes house hold expenses incurred through credit card amounting to Rs. 1,55,490/- and house hold expenses incurred in cash/bank withdrawals amounting to Rs. 1,44,510/-. It was further submitted that the whole of the credit card payment of Rs. 2,89,254/- cannot be considered as a part of the drawings of Rs. 3,00,000/- as Rs. 1,33,764/- is incurred towards business and travelling expenses which has been claimed as business expenses in the books of M/s Maxwell India. It was further submitted that the assessee is residing in his parental house in a joint family and the other members of the family have also withdrawn amount from their respective bank accounts towards the house hold expenditure totaling to Rs. 7,00,000/-(including that of the assessee) which is quiet sufficient for meeting day to day expenses of the assessee's joint family. In light of the same, it was submitted that adhoc of Rs. 1,00,000/- is not justified and the same may be deleted.

6. The Id. DR is heard who has relied on the finding of the lower authorities.

7. We have heard the rival contentions and perused the material available on record. We find force in the arguments of the Id. AR that there are sufficient house hold drawings of Rs. 7,00,000/- including Rs. 3,00,000/- by the assessee which is sufficient for meeting their day-to-day house hold expenses. Further, the AO has not brought on record any evidence to support the adhoc disallowance of Rs. 1,00,000/-. In light of the same, the adhoc addition of Rs. 1,00,000/- made by the AO is hereby deleted.

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

Order pronounced in the open Court on 21/08/2018.

Sd/-

(विजय पाल राव)
(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

Sd/-

(विक्रम सिंह यादव)
(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 21/08/2018.

***Santosh**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Manoj Jain, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, Ward- 4(2), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 133/JP/2018 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar