

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "D", MUMBAI**

BEFORE SHRI G.S. PANNU (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No. 3347/MUM/2017
Assessment Year: 2012-13**

Madhu Entertainment & Media Ltd., A/704, Remi Bizcourt, Plot No. 9, Shah Industrial Estate, Off Veera Desai Road, Andheri (W), Mumbai - 400053 PAN: AAACM3345B	Vs.	The ACIT-16(1), Aayakar Bhavan, Mumbai - 400020
(Appellant)		(Respondent)

Assessee by : Shri M.L. Jethva (AR)
Revenue by : Shri Chaitanya Anjaria (DR)

Date of Hearing: 25/09/2018
Date of Pronouncement: 25/09/2018

ORDER

PER RAM LAL NEGI, JM

This appeal has been preferred by the assessee against the order dated 13.01.2017 passed by the Commissioner of Income Tax (Appeals)-4 (for short 'the CIT(A), Mumbai, for the assessment year 2012-13, whereby the Ld. CIT(A) has partly allowed the appeal filed by the assessee against the assessment order passed by AO u/s 143 (3) of the Income Tax Act, 1961 (for short the 'Act').

2. Brief facts of the case are that the assessee engaged in the business of purchasing and selling video rights, theatre rights, satellite right and telecast rights of television programme and feature films, filed its return of income for the assessment year under consideration. It was noticed that the assessee had claimed interest on unsecured loans to the tune of Rs. 7,64,040/-. Accordingly, the AO asked authorized representative of the assessee (AR) to submit the details of interest paid on unsecured loans. In response thereof authorized

representative of the assessee furnished the details. Since, the assessee had paid interest @ 18% to Mr. Hirachand Dand and 21% to Mr. Pratik H Shah, the AO asked the AR to show cause as to why excess interest should not be disallowed. The AR submitted that since no security and processing fees was required to be paid by the assessee, the assessee obtained unsecured loan from the aforesaid parties and paid higher rate of interest. However, the AO rejected the contention of the assessee and restricted the interest to 12% per annum and disallowed the excess amount to the extent of Rs. 2,74,894/- and added the same to the income of the assessee. In the first appeal, the Ld. CIT (A) sustained the addition holding that the explanation given by the assessee is not plausible. The assessee is in appeal against the said order passed by the Ld. CIT (A).

3. The assessee has preferred this appeal before the Tribunal on the following effective ground:-

“The learned CIT (A)-4 has erred in upholding disallowance of interest of Rs. 2,74,894/- paid on unsecured loan.”

4. Before us, the Ld. counsel for the assessee submitted that this issue is covered by the decision of the ITAT rendered in the assessee's own case for the assessment year 2010-11. Therefore, the impugned order is liable to be set aside. The Ld. Departmental Representative (DR) relied on the orders passed by the Ld. CIT (A), however, did not controvert the fact that the ITAT has decided the identical issue in favour of the assessee in the assessee's own case.

5. We have heard the rival submissions and also perused the material on record. We notice that the co-ordinate Bench has decided the identical issue in favour of the assessee in the assessee's own case ITA No. 5537/Mum/2016 for the A.Y. 2010-11. The relevant part of the order of the Tribunal reads as under:-

4. *“We have heard the rival contentions of both the parties. Looking to the facts and circumstances of the case, we find that the assessee has paid the interest at the rate of 18% to one Mr. Hirachand Dand and he has also paid interest at rate of 21% to Mr. Pratik H Shah. The assessee has taken the contention that the borrowing from bank may cost around 16% plus processing fee and bank insists on securities and loan from related is unsecured and no securities need to be given and further, loan from related party is for temporary period. We find that similar issue had come up before Ahmedabad Tribunal in the case of Vipul Y. Mehta Vs. ACIT in ITA No. 869/Ahd/2010 wherein the Tribunal has held that considering the facts of the case and argument of both the sides, the payment of interest at the rate of 18% per annum on loan taken from a related person cannot be said to be excessive and unreasonable. Moreover, the Ld. A.R. also relied upon the decision in the case of Omkarmal Gaurishanker vs. ITO TTJ (Ahd.) 223 wherein the Tribunal held that interest paid to relative at the rate of 24% to be reasonable. We find that in the instant case, assessee has paid interest at the rate of 18% to Mr. Hirachand Dand and 21% to Mr. Pratik H Shah, both are directors of the company and assessee has taken the loan for business purposes. Therefore, we are of the view that the Ld. CIT (A) is not justified in not allowing the excess rate of interest than 12%. Therefore, we allow the appeal of the assessee.”*

6. The facts and the issue involved in the present case are identical to the facts and the issue involved in the assessee's own case for the A.Y. 2010-11. Since, the co-ordinate Bench has decided the identical issue in favour of the assessee and since there is no change of facts in the present case, we do not

find any reason to deviate from the view already taken by the Bench in the identical matter. Hence, respectfully following the decision of the coordinate Bench we allow the sole ground of appeal of the assessee and direct the AO to delete the addition.

In the result, appeal filed by the assessee for assessment year 2012-2013 is allowed.

Order pronounced in the open court on 25th September 2018.

Sd/-

(G.S. PANNU)

ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated: 25/09/2018

Sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

Alindra, PS

आदेश प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai