

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.4696/Del./2018
Assessment Year 2012-2013

Mrs. Maya Goel, Ghaziabad. PAN ACRPG3633Q C/o. M/s. RRA Tax India, D-28, South Extension, Part-1, New Delhi – 110049.	vs.	The Income Tax Officer, Ward-1(4), Ghaziabad.
(Appellant)		(Respondent)

For Assessee :	Shri Rakesh Gupta And Shri Somil Aggarwal, Advocates
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	03.12.2018
Date of Pronouncement :	10.12.2018

ORDER

This appeal by Assessee has been directed against the Order of the Ld. CIT(A), Ghaziabad, Dated 27.04.2018, for the A.Y. 2012-2013, challenging the Orders of the authorities below in confirming the addition of Rs.8,19,770/- on account of interest paid.

2. Briefly the facts of the case are that the assessee in the computation of income has shown income from house property, Profit & Gains from business & profession. Income from Capital gains and Income from other sources. The assessee had earned interest income on FDRs Rs.9,28,841/- and paid interest on loan in a sum of Rs.8,19,770/-. The assessee, thus, offered net interest income from other sources in a sum of Rs.1,09,071/-. The assessee was required to explain the nature of deduction under section 57 of the I.T. Act. The assessee explained that she has obtained unsecured loans from two persons namely Smt. Poonam Goyal and Smt. Alka Goel amounting to Rs.61 lakhs and Rs.58 lakhs respectively, on which, the interest was paid. It was further stated that these loans had been taken to make investment in FDRs of Rs.59 lakhs and Rs.60 lakhs. It was also stated that unsecured loans had been obtained only for the purpose of earning interest income on FDRs and the interest paid to these ladies should be allowed under section 57(iii) of the I.T. Act, as the interest on unsecured loans has been paid wholly and

exclusively for the purpose of earning interest income on FDRs. The A.O. however, did not accept the contention of assessee and following the decision of Hon'ble Supreme Court in the case of CIT vs. V.P. Gopinathan (2001) 248 ITR 449 (SC) rejected the claim of assessee.

3. The assessee challenged the addition before the Ld. CIT(A) and same submissions have been reiterated. It is submitted that assessee has obtained interest bearing loans from these two ladies on which interest has been paid and since these loans were used to make investment in bank FDRs, such interest payment is deductible expenditure. It was also explained that interest bearing loans have been used for the purpose of making FDRs and earn interest on FDRs. The Ld. CIT(A), however, noted that against the above FDRs loan from the bank have been taken to repay to the two lenders. Therefore, had intention of the assessee been to earn interest income on FDRs, loan taken against FDRs should not have

been used for the repayment of unsecured loans. The addition was, therefore, confirmed.

4. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and submitted that decision of the Hon'ble Supreme Court in the case of CIT vs. V.P. Gopinathan (supra) is clearly distinguishable on facts because in this case, Learned Counsel for the Assessee appeared before the Tribunal had made it clear that assessee's case did not rest upon the provisions of Section 57(iii) of the I.T. Act. He has submitted that in the case of the assessee there is a nexus between the interest payment and interest earned, therefore, deduction is allowable.

5. On the other hand, Ld. D.R. relied upon the Orders of the authorities below.

6. I have considered the rival submissions. Section 57(iii) of the I.T. Act provides deduction under the Head "Income from other sources" and it is provided that *"income chargeable under the Head "Income from other sources" shall*

be computed after making the deduction. "any other expenditure" (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income." In the present case, it is not in dispute that assessee has obtained unsecured loans from two ladies on which interest was paid. It is also not in dispute that these loans had been taken to make investment in FDRs on which interest have been earned. Therefore, there is a nexus between the interest income and the interest expenditure incurred wholly and exclusively for the purpose of earning such income. Therefore, assessee is entitled for deduction under section 57(iii) of the I.T. Act. I, accordingly, set aside the Orders of the authorities below and delete the addition of Rs.8,19,770/-. Appeal of Assessee is allowed.

7. In the result, appeal of Assessee is allowed.

Order pronounced in the open Court.

Delhi, Dated 10th December, 2018
VBP/-

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.