

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC', NEW DELHI
BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER

ITA No. 3283/Del/2018

Assessment Year: 2014-15

RAVINDER PAL SINGH, PROP. M/S STAR TOOLS & CASTINGS, PLOT NO. 73, INDIRA INDUSTRIAL COMPLEX, NEAR KHERI PUL FARIDABAD CHURCH GALI, KAILA BHATTA, GHAZIABAD (PAN: AEFPB0220A)	Vs.	ITO, WARD II(2), CGO COMPLEX, NH-IV, NIT FARIDABAD
(Appellant)		(Respondent)

Assessee by	Sh. Alok Kumar Gupta, Adv.
Department by	Sh. SL Anuragi, Sr. DR.

ORDER

This appeal is filed by the Assessee against the Order dated 06.3.2018 passed by the Ld. CIT(A), Faridabad relating to assessment year 2014-15 on the following grounds:-

- i. The Ld. CIT(A) erred in partially sustaining the disallowance of interest Rs. 161452/- u/s. 36(1)(iii) of the Income Tax Act, 1961 ignoring the appellant's claim that the asset in question the flat at Nahar Par Faridabad was an asset used in business.

- ii. On facts and circumstances of the case and applicable law, the Ld. CIT(A) erred in confirming the interest disallowance of Rs. 206533 on purchase of industrial plot at Faridabad.
- iii. The Ld. CIT(A) erred in confirming the disallowance of interest Rs. 247240/- u/s. 36(1)(iii) of the Income Tax Act, 1961 and further erred in ignoring the interest free capital of the appellant being more than the interest free advance given to Sh. Vivek Singh after holding the same not to be a business advance.
- iv. The appellant craves leave to add, amend, delete and modify any grounds of appeal before / during the hearing of the appeal and all the above grounds are without prejudice to each other.

2. The brief facts of the case are that assessee is engaged in manufacturing of aluminum die casted component and filed his return of income on 28.11.2014 declaring an income of Rs. 14,16,780/-. Subsequently, the case was selected for scrutiny through CASS. The AO issued various notices u/s. 143(2) and 142(1) of the Income Tax Act, 1961 (In short "Act"). The assessment u/s. 143(3) of the Act was completed on 31.10.2015 at an assessed income of Rs. 24,99,060/- by making addition of Rs. 10,82,279/- on account of interest on borrowed capital u/s. 36(1)(iii) of the Act. Against the assessment order, assessee

appealed before the Ld. CIT(A), who vide his impugned order dated 06.3.2018 has partly allowed the appeal of the assessee. Aggrieved with the impugned order, assessee is in appeal before the Tribunal.

3. During the hearing, Ld. counsel for the assessee has stated that Ld. CIT(A) erred in partially sustaining the disallowance of interest Rs. 161452/- u/s. 36(1)(iii) of the Income Tax Act, 1961 ignoring the assessee's claim that the asset in question the flat at Nahar Par Faridabad was an asset used in business and erred in confirming the interest disallowance of Rs. 206533 on purchase of industrial plot at Faridabad and also erred in confirming the disallowance of interest Rs. 247240/- u/s. 36(1)(iii) of the Income Tax Act, 1961 and further erred in ignoring the interest free capital of the assessee being more than the interest free advance given to Sh. Vivek Singh after holding the same not to be a business advance. To support his contention, he filed the Paper Book containing the working of disallowance of interest if assets under appeal are treated as non business assets and copy of balance sheet, profit and loss account for FY 2012-13. He requested to cancel the orders of the authorities below and allow the appeal of the assessee.

4. On the other hand, Ld. DR relied upon the order of the Ld. CIT(A) and stated that he has passed a well reasoned order which does not need any interference.

5. I have heard both the parties and perused the records especially the impugned order. In the instant case the assessee incurred the interest

expenditure of Rs. 1601150.74 on various borrowings availed by him for his business in the name and style M/s Star Tools & Castings. The AO has disallowed interest Rs. 10,82,279/- u/s. 36(1)(iii) of the Act holding that interest being funds borrowed from banks were diverted and used for investment in non-business and personal assets appearing in the balance sheet as on 31.3.2014. As regards addition of interest of Rs. 3,89,469/- on flat is concerned, it is a fact that this is housing loan from Axis Bank and later taken over by Andhra Bank, hence, the interest on these loans a/c was Rs. 136014 + Rs. 25438= Rs. 161452/-, hence, the addition was sustained to this extent and the rest was rightly deleted, which does not need any interference, hence, the same is upheld. As regards the interest of Rs. 206533/- on industrial plot Sector-62 Faridabad, it is undisputed fact that the assessee has still not started using the industrial plot under consideration, thus the addition was rightly sustained by the Ld. CIT(A), which does not need any interference, hence, the same is upheld. As regards interest of Rs. 2,47,240/- on advance to Sh. Vivek Singh, it is undisputed that the entries has been posted separately in the account of Sh. Vivek Singh and M/s Star Cast shows that the advance was not a business advance to M/s Star Cast and was a personal advance to Sh. Vivek Singh, hence, the addition was rightly sustained, which does not need any interference, hence, the same was upheld. In nutshell, the issue raised by the assessee was partly allowed by the Ld. CIT(A), which does not need any interference on my

part, hence, I uphold the action of the Ld. CIT(A) on the issue in dispute and reject the grounds raised by the Assessee.

6. In the result, the Appeal of the Assessee is dismissed.

Order pronounced on 08-01-2019.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date:08/01/2019

SRBhatnagar

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1. Appellant 2. Respondent 3. CIT 4. CIT (A) 5. DR, ITAT
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By Order,

Assistant Registrar, ITAT, Delhi Benches