

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" NEW DELHI**

**SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No. 2850/Del/2018  
Assessment Year:2015-16

M/s Laxmi Plastic, G-969, DSIDC, Industrial Complex, Narela, Delhi-110040	<u>Assessment</u> <u>Year: 2015-</u> <u>16</u>	ITO, Ward-37(3), I.P. Estate, New Delhi
TAN/PAN: AAAFL7107K		
(Appellant)		(Respondent)

Appellant by:	Sh. R.S. Singhvi, CA, Sh. Satyajet Goel, CA		
Respondent by:	Sh. Surender Pal, Sr. DR		
Date of hearing:	24	09	2018
Date of pronouncement:	21	12	2018

**ORDER**

**AMIT SHUKLA, J.M.:**

The aforesaid appeal has been filed by the assessee against the impugned order dated 28.2.2018 passed by Ld. CIT(A)-13, New Delhi for the assessment year 2015-16. On various grounds of appeal, the assessee has challenged the adjustment made in intimation u/s 143(1) and rejection of claim of interest on partner capital of Rs. 2,38,825/-.

2. The facts in brief are that the appellant is a partnership firm engaged in manufacturing cum-trading in plastic goods. It has four partners who were entitled to interest on their capital as per the applicable rate as

prescribed u/s 40(b)(iv) of the Act. The appellant filed its I.T. return for the assessment year 2015-16 declaring net taxable income at Rs. 610/- after claiming deduction of interest paid to partners of Rs. 2,38,825/- as per detail given below:-

	<i>Name of the Partner</i>	<i>Amt/Rs.</i>
<i>i.</i>	<i>Sh. Gulshan Kumar Sachdeva</i>	<i>32717/-</i>
<i>ii.</i>	<i>Ram Dev Sachdeva</i>	<i>18564/-</i>
<i>iii.</i>	<i>Shanta Sachdeva</i>	<i>94891/-</i>
<i>iv.</i>	<i>Sangeeta Sachdeva</i>	<i>92653/-</i>

The appellant paid interest to partners @ of 12% on the capital balance standing credit to the respective capital accounts as allowable provision u/s 40(b)(iv) of the Act. The AO CPC, Bangalore had assessed the business income of Rs. 2,38,825/- vide intimation dated 7.9.2015. However, the claim of deduction of interest of Rs. 2,38,825/- paid to the partners on capital account has been disallowed. The learned CIT(A) has discussed the facts in the following manner:-

*“4.3 The hard copy of appellant’s Return was called. Vide letter dated 19.02.2018 (received in Dak on the same date), the appellant contended that it claimed deduction of remuneration paid to partners (of Rs. 2,45,679/-), as per column no. 38 of schedule P&L, of the Rol as per detail given below:-*

<i>Interest</i>	<i>Rs. 2,38,825/-</i>
<i>Remuneration</i>	<i>Rs. 6,854/-</i>
<i>Total</i>	<i>Rs. 2,45,679/-</i>

*4.4. A perusal of column no. 38 shows that appellant has indeed claimed this amount of Rs. 2,45,679/-. However, the description of this column no. 38 shows that it is total of column (8) of item-E of Partner’s/members information under Part-A-Gen. A perusal of item-E of Partner’s/members information under Part-A-Gen shows that the appellant has shown remuneration of Rs.*

3427/- each to i) Sh. Gulshan Kumar Sachdeva and ii) Sh. Ramdev Sachdeva. A perusal of item-E of Partner's/members information under Part-A-Gen also shows that the rate of interest on capital has been shown at 0.00. Therefore, while processing the Rol, the CPC has corrected the figure of Rs. 2,45,679/- in column no. 38 of schedule P&L to Rs. 6,854/- (being total of column (8) of item-E of Partner's/members information under Part-A-Gen.).

4.5 Therefore, the CPC has made adjustment of arithmetical mistake which is very much within the scope of 143(1). It is the appellant who has filled up figures in item-E of Partner's/members information under Part-A-Gen which can be corrected only by way of revised Rol which is not possible in the present case because as per the intimation the Rol was filed u/s 139(4).”

3. After hearing both the parties and on perusal of the ITR, which has been placed in the paper book at from pages 4 to 32, it is seen that in Item No. 38, the assessee had shown salary remuneration at Rs. 2,45,679/- and in the column of interest paid to the partners, it has been shown at nil. It appears that assessee has clubbed remuneration amount of Rs. 6,854/- and interest paid to the partners of Rs. 2,38,825/- wrongly in Item No. 38 instead of showing of interest in Item No. 44.

4. Further on perusal of profit and loss account, it is seen that assessee had made payment of interest to the partners of Rs. 2,38,825/- and remuneration of Rs. 6,854/- and in the computation of income such an interest income has been deducted. Thus, it appears that it was a bona fide mistake while disclosing the interest paid in a different item the return of income. The claim which is otherwise allowable under the Act has to be allowed in accordance with law; and

when assessee had moved an application u/s 154 before the Assessing Officer, then same should have been rectified. Thus, I hold that such a disallowance could not have been made especially when assessee had moved a rectification application before the AO seeking rectification of amount which is otherwise allowable under the statute while computing the income of the firm. Thus grounds raised by the assessee are allowed.

5. In the result, appeal of the assessee is allowed.

**Order pronounced in the open court on 21<sup>st</sup> December, 2018.**

Sd/-

**[AMIT SHUKLA]  
JUDICIAL MEMBER**

DATED: 21<sup>st</sup> Dec, 2018

SH

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

Assistant Registrar

		Date
1.	Draft dictated on	21.12.2018
2.	Draft placed before author	21.12.2018
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	
6.	Kept for pronouncement on	
7.	File comes back to PS/Sr. PS	
8.	Uploaded on	9.1.2019
9.	File sent to the Bench Clerk	
10.	Date on which file goes to the AR	
11.	Date on which file goes to the Head Clerk.	
12.	Date of dispatch of Order.	