

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'A+SMC', NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No.3277/Del/2018  
Assessment Year: 2014-15

Shri Parveen Kumar, C/o-S.P. Jain, Advocate, Mission Road, Opp. Jain Mandir, Sonipat, Haryana	<b>Vs.</b>	Income Tax Officer, Ward-3, Panipat
<b>PAN :AQDPK7879G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Shri K. Sampath & Shri V. Raja Kumar, Advocates
Respondent by	Shri S.L. Anuragi, Sr.DR

Date of hearing	09.01.2019
Date of pronouncement	16.01.2019

**ORDER**

**PER O.P. KANT, A.M.:**

This appeal by the assessee is directed against order dated 13/04/2018 passed by the Ld. Commissioner of Income-tax (Appeals), Rohtak [in short 'the Ld. CIT(A)'] for assessment year 2014-15, raising following grounds:

*That on the facts and in the circumstances of the case and in law the Revenue Authorities erred in disallowing the following*

*expenses genuinely and exclusively incurred for the purpose of business:*

- i) Salary Rs.5.61*
- ii) Interest 1 Lakh*

*The above actions being arbitrary and unjust must be quashed with directions for relief.*

**2.** Briefly stated facts of the case are that the assessee filed return of income for the year under consideration on 08/03/2015 declaring total income of Rs.2,18,920/-. The case was selected under Computerised Assisted Selection of Scrutiny (CASS) on the basis of reasons of “low-income compared to large commission receipts”. The notice under section 143(2) of the Income-tax Act, 1961 (in short ‘the Act’) was issued and served upon the assessee on 18/08/2015. But no compliance was made by the assessee. Subsequently, the Assessing Officer issued a detailed questionnaire alongwith notice under section 142(1) of the Act on 13/06/2016. The assessee did not comply this notice also. The Assessing Officer in para 2.1 of the assessment order has mentioned various notices issued and non-compliance of those notices by the assessee. The Assessing Officer also issued a final show-cause notice on 2/11/2016 calling upon the assessee as why the assessment may not be completed under section 144 (ex parte assessment) on the basis of the information or documents available on record. The assessee did not comply with this notice also. Consequently, the Assessing Officer completed assessment on 17/11/2016 under section 144 of the Act making disallowances of Rs.12,59,241/- which included disallowance of

Rs.7,11,584/-on account of salary and disallowance of Rs.5,46,572/-on account of interest.

**2.1** The Ld. Assessing Officer compared trading results of the assessee with preceding assessment year and found that in preceding assessment year the assessee declared net profit of Rs.1,18,856/- on total receipts/turnover of Rs.4,03,660/- which was 29.44% of the total receipt, whereas in the year under consideration the assessee declared only net profit of Rs.2,18,920/- on total receipts /turnover of Rs.24,52,082/-which was only 8.9%. The Assessing Officer examined the profit and loss account of the assessee and found that expenses were claimed mainly on three accounts i.e. salary expenses, miscellaneous expenses and interest expenses.

**2.2** The Assessing Officer further examined the salary expenses and found that during the year under consideration the assessee has claimed salary expenses of Rs.12,02,000/- against the gross receipt of Rs.24,50,082/- which works out to 49% of the gross receipts, as compared to the salary expenses of Rs.60,000 against gross receipt of Rs.4,03,660/- in the immediately preceding year, which were 14.86% of the gross receipt. In absence of no explanation by the assessee, the Assessing Officer estimated the salary expenses during the year to 20% of the total receipts and worked out allowable salary at Rs.4,90,116/-and the balance amount out of Rs.12,02,000/-, which was worked out to Rs.7,11,584/-, was disallowed.

**2.3** On the issue of the interest expenses the Ld. AO noted that the assessee claimed expense of Rs.7,69,959/- in the year under consideration as against interest expenses of Rs.1,88,032/- claimed in the immediately preceding assessment year i.e. 2013-

14. On perusal of the balance sheet of the assessee, the Assessing Officer found that there was a decrease in interest-bearing funds during the year under consideration from Rs.16,61,664/- to Rs.2,15,95,621/- despite higher interest expenses were claimed by the assessee. He worked out the interest rate of 11.32% on the basis of the interest amount of Rs.1,88,032/- on the loan amount of Rs.16,61,664/- for immediately preceding assessment year and in comparison with the interest of Rs.7,69,959/- and loan amount of Rs.15,95,621/- in the year under consideration where he found the interest rate at 48.25%. According to him, such a high rate was not believable and therefore he estimated interest rate at the 14% as reasonable and worked out the allowable interest at Rs.2,23,387/- and disallowed the balance amount of Rs.5,46,572/- out of the interest amount of Rs.7,69,959/- claimed by the assessee.

**2.4** The assessee filed appeal before the Ld. CIT(A) and filed additional evidences under Rule 46A of the Income Tax Rules which included receipt issued by some persons for receipt of salary. The Ld. CIT(A) forwarded those additional evidences to the Assessing Officer calling for remand report. The Ld. Assessing Officer though objected to the admission of the additional evidences however commented that no salary register or voucher etc were maintained by the assessee and the receipts were not authentic. The Ld. CIT(A) provided the copy of the remand report to the assessee and after taking into account all the evidences, including a rejoinder of the assessee, allowed part relief to the assessee on both the issue of salary expenses and interest expenses. The Ld. CIT(A) considered salary expenditure of Rs.1,50,000 as reasonable. Also the disallowance of Rs. 1 lakh

under the head interest expenses has been sustained. Aggrieved with the amount of addition sustained, the assessee is in appeal before the Tribunal, raising the grounds as reproduced above.

**3.** Before us, the Ld. counsel of the assessee, submitted that primary evidence of receipts of salary paid have already been submitted before the Ld. CIT(A) and the assessee has discharged his onus to support claim of the salary expenditure. He submitted that there are no evidence on record that no salary has been paid and therefore the disallowance sustained by the Ld. CIT(A) is not justified. On the issue of interest expenses, he submitted that claim of the assessee of interest rate of 15% per annum is reasonable and same should be allowed to the assessee.

**4.** On the contrary, the Ld. DR relied on the finding of the lower authorities and submitted that assessee has merely provided names of the person in the receipt of salary and neither detailed address of the persons nor any salary register or Employee State Insurance Deduction (ESI) or Provident Fund (PF) details of the employees of the assessee has been provided. According to him, in view of the increase in turnover or receipt of the assessee from commission, the amount of salary sustained by the Ld. CIT(A) is most reasonable. On the issue of the interest expenses, he submitted that despite no evidences in respect of interest paid, the Ld. CIT(A) has allowed relief to the assessee and sustained disallowance of Rs. 1 lakh observing rate of interest of 12% as reasonable. According to him, assessee has already been allowed relief more than the amount, he deserved, therefore, no further relief should be allowed to the assessee.

**5.** We have heard the rival submissions and perused the relevant material on record. The issue in dispute in the instant

case is the reasonability of the salary and interest expenditure claimed by the assessee. There is no dispute on the facts that during the year under consideration claim of salary expenses has increased 49% of the gross receipt as compared to 14.86% of the gross receipt in immediately preceding year, i.e., 2013-14. The assessee has not given any justified reason for exorbitant increase in the salary expenses. The Ld. Assessing Officer has estimated the salary expenses to 20% of the gross receipt, which was worked out to Rs.4,90,116/- as against the claim of the assessee of Rs.12,02,000/- and made addition of Rs.7,11,584/-. The Ld. CIT(A) sustained the disallowance of Rs.1,50,000/-. The finding of the Ld. CIT(A) on the issue of salary expenses is reproduced as under:

*“6.1 As regards the salary expenses the assessee has furnished receipts with signature of the persons to whom payments have been made and has given justification for the expenditure claimed. The proof submitted by the assessee is hand written receipts with only names and no other details. No salary register has been maintained and all the payments are in cash. The salary expenditure of previous year was Rs 60,000/-. It is seen that the turnover is almost double in comparison to the earlier year (i.e. AY 2013-14). Considering that the documentary evidence given by the assessee does not fully substantiate his claim and also considering that the turnover of the assessee has double in the current year, salary' expenditure of Rs 1,50,000/- is considered reasonable and acceptable for this year. This ground of appeal is partly allowed.ö*

**6.** On perusal of the finding of the Ld. CIT(A), we find that assessee has furnished only handwritten receipt with only names of the person without any other details i.e. address. The assessee has not produced any salary register and payments are shown to have in cash only. Before us also, no list of employees along with

name and address and the amount of salary paid etc has been produced. No other evidence like ESI or PF deducted in respect of the employees has been produced before us. In our opinion, the Ld. CIT(A) has reasonably estimated the salary expenditure in view of the conduct of the assessee in the immediately preceding assessment year. The order of the Ld. CIT(A) on the issue in dispute is found to well reasoned and we do not find any error in the same. Accordingly, the finding of the Ld. CIT(A) on the issue of salary expenses is upheld.

**7.** On the issue of interest expenses the assessee has failed to provide any documentary evidence in support of interest expenses of Rs.7,69,959/- claimed in the return of income. In absence of the documentary evidence like confirmation of the creditors, or their permanent account number (PAN) or detail of the income tax returns etc., the Ld. CIT(A) is justified in sustaining the disallowance of Rs. 1 lakh, observing as under:

*“6.2 As regards the interest expenditure claimed by the assessee, the explanation that the increase in expenditure is on account of interest paid to the zamindars of Rs 5,81,500/-, only copy of account showing interest payments made to some zamindars with their names has been submitted. No other documentary evidence such as confirmation of zamindars or their PAN or details of ITRs etc. has been submitted. The balance sheet submitted by the assessee shows an outstanding balance of Rs 38,10,401/- on account of loans from zamindars, but this alone cannot be the basis for allowing the interest expenditure claimed by the assessee which is almost @ 15% p.a. As the assessee has not been able to prove that this expenditure has been incurred wholly and exclusively for the purpose of business activity and the documentary evidence given by him does not support his claim, it is held that this is not a correct claim and even if it is accepted that interest was paid to the zamindars, 12% rate of interest is reasonable and as per the provisions of the Act. Thus a disallowance of Rs 1,00,000/- is made under this head. This ground of appeal is partly allowed.”*

**8.** In our opinion, despite the observation of no evidence of incurring the expenditure wholly and exclusively for the purpose of the business, the Ld. CIT(A) has allowed relief of Rs.4,46,572/- and sustained amount of Rs.1 lakh only. We find the action of the Ld. CIT(A) as just and reasonable in the facts and circumstances of the case and would not like to disturb the same. Accordingly, we uphold the finding of the Ld. CIT(A) on the issue in dispute. The ground of the appeal is accordingly dismissed.

**9.** In the result, the appeal of the assessee is dismissed.

***Order is pronounced in the open court on 16<sup>th</sup> January, 2019.***

Sd/-  
**[AMIT SHUKLA]**  
**JUDICIAL MEMBER**

Sd/-  
**[O.P. KANT]**  
**ACCOUNTANT MEMBER**

Dated: 16<sup>th</sup> January, 2019.

RK/-[d.t.d.s]

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi