

**IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCHES, 'SMC', CHANDIGARH**

BEFORE SHRI N.K. SAINI, VICE PRESIDENT

ITA No.1303/Chd/2018
Assessment Year: 2015-16

Surinder Kumar Singal
SCO15, Madhya Marg,
Sector-26, Chandigarh

Vs.

The ACIT
C-5(1)
Chandigarh

PAN No. ADYPS5462P

(Appellant)

(Respondent)

Assessee By	:	Shri Rachit Goyal
Revenue By	:	Shri Manjit Singh, Sr. DR
Date of hearing	:	20/02/2019
Date of Pronouncement	:	20/02/2019

ORDER

This is an appeal by the Assessee against the order dt. 21/08/2018 of Ld. CIT(A)-2, Chandigarh.

2. The only grievance of the assessee in this appeal relates to the sustenance of the addition of Rs. 4,38,420/- made by the Assessing Officer by making the disallowance of interest expenses.
3. Facts of the case in brief are that the assessee filed the return of income on 31/10/2015 declaring an income of Rs. 33,64,680/- which was revised on 28/03/2017 at an income of Rs. 34,09,490/-, later on, the case was selected for scrutiny.
4. During the course of assessment proceeding the Assessing Officer noticed that the assessee had taken loan from different parties and was paying interest @13% on such loans whereas the interest was charged at the lower rate i.e; 12% from the related parties. The Assessing Officer disallowed the difference of interest amounting to Rs. 4,38,420/-.
5. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who sustained the disallowance made by the Assessing Officer.
6. Now the assessee is in appeal.
7. Ld. Counsel for the assessee submitted that a similar issue was a subject matter of the assessee's appeal in ITA No. 963/Chd/2018 for the A.Y 2014-15 before the ITAT Chandigarh Bench, Chandigarh wherein vide order dt. 17/01/2019 this issue has been set aside to the file of the Assessing Officer, copy of the said order was furnished which is placed on record.

8. In his rival submissions Ld. Sr. DR strongly supported the orders of the authorities below.

9. I have considered the submissions of both the parties and perused the material available on record. It is noticed that on identical issue for the preceding year 2014-15 has been set aside to the file of the Assessing Officer by following the earlier order dt. 03/07/2018 in ITA No. 1224/Chd/2016, the relevant findings has been given in para 5 to 7 of the order dated 17/01/2019 in ITA No. 963/Chd/2018 which read as under:

5. The next issue raised by the assessee is against the disallowance of interest expenditure of Rs. 72,24,534/- u/s 57(iii) of the Act. At the outset, Ld. Counsel for the assessee has submitted that there was a direct nexus between the interest income earned and expenditure claimed. That the assessee had received loan amount from the bank which was further disbursed as loan to other parties from whom the interest income was earned. That the assessee was entitled to set off the interest expenditure against interest income as there was a direct nexus between the two.

6. The Ld. DR, on the other hand, has submitted that the assessee could not prove with satisfactory evidence the direct nexus between interest income earned and the interest expenditure incurred by the assessee.

7. We have considered the rival contentions. If the averments of the assessee are taken as correct, the assessee, in our view, will be entitled to claim deduction of the expenditure out of the interest income offered by the assessee. We therefore set aside the impugned order on this issue and restore the issue to the file of the Assessing Officer to examine it afresh and decide the same in the light of the above observations made after giving proper opportunity to the assessee to present his case.

Since the facts for the year under consideration are identical to the facts involved in the preceding assessment year, so respectfully following the order dt. 17/01/2019 in ITA No. 963/Chd/2018 for the A.Y. 2014-15 this issue is set aside to the file of the Assessing Officer to be decided as directed in the aforesaid referred to order of the ITAT.

10. In the result, appeal of the Assessee is allowed for statistical purposes.

(Order pronounced in the open Court on 20/02/2019.)

**Sd/-
(N.K. SAINI)
VICE PRESIDENT**

Place: Chandigarh

Dated : 20/02/2019

AG

Copy to: The Appellant, The Respondent, The CIT, The CIT(A), The DR