

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B" : HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

I.T.A. No. 1682/HYD/2017

Assessment Year: 2013-14

Sri Sarfaraz Hussainali
Lakhani,
SECUNDERABAD
[PAN: ABEPL9890L]

DCIT, Circle-16(1),
HYDERABAD
Vs

(Appellant)

(Respondent)

For Assessee : Shri Sanjay Mutha, AR
For Revenue : Shri Nilanjan Dey, DR

Date of Hearing : 04-04-2019
Date of Pronouncement : 03-05-2019

ORDER

PER Smt. P. MADHAVI DEVI, J.M. :

This is assessee's appeal for the AY. 2013-14, against the order of the Commissioner of Income Tax (Appeals)-4, Hyderabad, dated 17-07-2017.

2. Brief facts of the case are that the assessee, an individual and Director of M/s. LSC Steels Pvt. Ltd., and also proprietor of Kuber Steels, filed his return of income for the AY. 2013-14 on 05-10-2013, admitting total income at Rs. 18,08,110/-.

3. During the assessment proceedings u/s. 143(3) of the Income Tax Act [Act], the Assessing Officer observed that assessee has offered interest income from LSC Steels of Rs. 3,48,430/- and after claiming a set-off of interest expenditure of Rs. 15,01,360/- under the head 'income from other sources'. The assessee was, therefore, required to furnish the details of the expenditure claimed. The assessee explained that the interest was paid for the loans taken for acquisition of the property located at Dundigal village and loans were obtained from his family members. He submitted that interest was paid to the family members for loans taken for purchase of property. The assessee furnished a copy of the bank statement and also the confirmations from the relevant parties. The Assessing Officer observed that the assessee has taken a loan from State Bank of India for purchase of the said property and the interest thereon has been allowed as a deduction u/s. 24(b) of the Act. However, for the claim of interest payment of Rs. 15,01,360/-, he held that it is not allowable to be set-off against the interest income under the head 'income from other sources' as the same was not incurred for earning of the interest income. He therefore disallowed the same.

3.1. Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of Assessing Officer and the assessee is in second appeal before us.

4. The Ld. Counsel for the assessee, reiterating the submissions made before the authorities below, submitted

that the assessee and his brother had purchased the property for a total consideration of Rs. 4,57,58,530/-, including registration charges and the assessee's share was Rs. 2,28,79,115/-. He submitted that in addition to obtaining a loan from State Bank of India, assessee had also procured loans from family members and as per the custom in the family, he has paid interest to the family members on the said loans. He submitted that assessee's parents who had advanced the loans had also offered interest income to tax in their returns of income. He has filed copies of the returns of income and also computation of income of the parents as well as the relatives, who have advanced the loans to assessee. He also submitted that the same amount cannot be brought to tax in the hands of the assessee as well as his parents. He therefore prayed that the interest expenditure of Rs. 15 Lakhs be allowed against the income from house property u/s. 24(b) of the Act.

5. The Ld.DR was also heard, who supported the orders of authorities below.

6. Having regard to the rival contentions and material on record, we find that the assessee has claimed interest expenditure to be set-off against the income from other sources. However, the same cannot be allowed since it is the interest incurred for securing of house property. Therefore, the assessee is eligible to claim the same from income from house

property, if any, earned by the assessee during the relevant assessment year.

6.1. As far as the interest portion which has been disallowed is concerned, we find that the parents of assessee, who have advanced loans to the assessee, have offered the interest to tax in their returns of income and the copies of their returns have been filed before us in the form of a Paper Book. Thus, we agree with the contentions of assessee that the same amount cannot be taxed in the hands of assessee as well as recipients of the interest. Therefore, since the parents have offered the income to tax, we hold that no disallowance or addition can be made in the hands of assessee. Grounds are accordingly allowed.

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

Order pronounced in the open court on 3rd May, 2019

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, Dated 3rd May, 2019

TNMM

Copy to :

1. Sri Sarfaraz Hussainali Lakhani, Secunderabad. C/o. Sanjay Mutha & Co., 905/1, Babukhan Estate, Basheerbagh, Hyderabad.

2. DCIT, Circle-16(1), Hyderabad.

3. CIT(Appeals)-4, Hyderabad.

4. Pr.CIT-4, Hyderabad.

5. D.R. ITAT, Hyderabad.

6. Guard File.