

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “B” BENCH**

**(BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT  
MEMBER & SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 1219/AHD/2017  
(Assessment Year: 2013-14)**

<b>Shri Dharmeshkumar V. Patel 25, Sudarshan Society Naranpura Ahmedabad-380013</b>	<b>V/S</b>	<b>D.C.I.T. Circle 2(2), Ahmedabad</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**PAN: ABYPP8092L**

**Appellant by : Shri Hem Chhajad, AR  
Respondent by : Shri Vedanshu Tripathi, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 21 -01-2019  
Date of Pronouncement : 24 -04-2019

**PER MAHAVIR PRASAD, JUDICIAL MEMBER**

1. This appeal filed by the Assessee is directed against the order of the Ld. CIT(A)-10, Ahmedabad dated 15.03.2017 pertaining to A.Y. 2013-14 and following grounds have been taken:

- 1) The order passed by the Ld CIT(A) is against law, equity and bad in the eyes of law.*
- 2) The Ld CIT (A) has erred in law and/or facts in upholding the order of the Ld. A.O. of disallowance of genuine business expenditure of Rs 13,63,446/-*
- 3) The appellant craves liberty to add, amend alter or modify all or any grounds of appeal before final disposal.*

2. In this case, the assessee is a proprietor of Aval construction co. on going through the Profit & Loss Account of Aval construction co. it has come to notice that during the year the assessee had not carried out any business activities since no income or receipts is declared in the Profit & Loss Account of Aval construction co. However, indirect incomes such as dividend (7440) and Interest Income of Rs.11,35,702/-has been found to be credited to the Profit & Loss Account. In other words, as per the Profit & Loss Account only income under the head 'Income from other sources' has been declared. On the other hand, the assessee had debited various expenditures in the Profit & Loss Account to the tune of Rs. 18,46,978/- which are not allowable under the provisions of section 57 of the I.T. Act. It is to mention here that the income declared by the assessee is covered by provisions of section 56 of the I.T. Act i.e. "Income from other sources".

3. In view of the above observation a show-cause notice was issued to the assessee vide this office letter No. DCIT/Circle.2(2)/SC/F.No.53/2015-1 6 dtd.30.11.2015. The relevant portion of the show case notice is reproduced hereunder:-

*"On notification of Profit & Loss Account, it is noticed that you have declared interest income of Rs.11,42,762/- which is to be assessed under the head "Income from other*

*sources". No. business activities appears to have been carried out as per the P&L A/c. and no income under the head". Business and professions has been declared by you. It is further noticed that you have debited following expenditure to arrive at the net loss of Rs. 7,04,214/- :-*

*Indirect expenses*

<i>Bank Commission</i>	<i>81,922/-</i>
<i>Depreciation Expenses</i>	<i>7,48,094/-</i>
<i>Diesel Petrol Expenses</i>	<i>12,975/-</i>
<i>Electric Charges</i>	<i>1,41,920/-</i>
<i>Insurance Expenses</i>	<i>1,92,439/-</i>
<i>Miscellaneous Expenses</i>	<i>7,970/-</i>
<i>Motor Repairing Expenses</i>	<i>1,21,365/-</i>
<i>Office Expenses</i>	<i>34,326/-</i>
<i>Professional Tax Expenses</i>	<i>2,400/-</i>
<i>R.T.O. Tax</i>	<i>5,012/-</i>
<i>Stationery &amp; Printing Expenses</i>	<i>30,635/-</i>
<i>Telephone Expenses</i>	<i>65,490/-</i>
<i>Total :-</i>	<i>13,63,447/-</i>

4. The above expenditures are not allowable as deduction against the interest income as per the provision of u/s 57 of the I.T. Act and all expenses except interest expenses of Rs. 4,83,531/- is disallowed and addition of Rs. 13,63,446/- is made in the hands of the assessee.

5. Thereafter assessee preferred first statutory appeal before the Id. CIT(A) and in appeal action of the A.O. was confirmed by the Id. CIT(A).
6. We have gone through the relevant record and impugned order. In this case, appellant is carrying on business of finance in his proprietary concern namely M/s Aval Construction Co. Appellant is also partner in various firms and earning profit, remuneration and interest income. The appellant has submitted profit and loss account and balance sheet of his proprietary concern namely M/s Aval construction Co. and other details called for by the lower authorities. During the year under reference, appellant has also earned interest and other income of Rs. 11,42,762/- in his proprietary concern. Appellant has also paid interest of Rs. 4,83,531/-. The out of total expenses, assessee has himself disallowed depreciation of Rs. 7,48,094/- in his return of income. And for remaining amount of Rs. 6,15,353/- was made for business purpose by the assessee but appellant has not shown any business activities appears to have carried out as per Profit and Loss account and no income under the business and professional has been declared by him. But in the interest of justice, we allow Rs. 3 lacs expenses out of Rs. 6,15,353 and direct the A.O. to make addition of Rs. 3,15,353/-.
7. In the result, appeal filed by the Assessee is allowed.

Order pronounced in Open Court on 24 - 04- 2019

**Sd/-**  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER** True Copy  
Ahmedabad: Dated 24/04/2019

**Sd/-**  
**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**