

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH 'SMC-B', BANGALORE**

**BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER**

**ITA No. 483 (Bang) 2019  
(Assessment year : 2013 – 14)**

Sri S. V. Suresh Kumar,  
No. 5, Ramappa Naik Lane,  
Kilary Road Cross,  
Bangalore – 560095.  
**PAN. ACLPS6033D**

Appellant

Vs

ITO Ward 2 (2) (5)  
Bangalore.

Respondent

**Assessee by : Shri S. V. Ravishankar, Advocate  
Revenue by : Shri Palani Kumar, Addl. CIT DR  
Date of hearing : 01-05-2019  
Date of pronouncement : 08-05-2019**

**ORDER**

**PER A. K. GARODIA, A.M.:**

This appeal is filed by the assessee and it is directed against the order of CIT (A) – 2 Bengaluru dated 30.11.2018 for A. Y. 2013 – 14.

2. The assessee has raised as many as 15 grounds but in course of hearing, it was submitted by the learned AR of the assessee that only two grounds being Ground No. 3 and 10 are pressed and remaining grounds are not pressed. Accordingly all grounds except Ground No. 3 and 10 are rejected as not pressed and we reproduce these two grounds being Ground No. 3 and 10. These are as under:-

3. The learned Commissioner of Income tax (Appeals) is not justified in law in confirming the disallowance of interest expenses of Rs. 7,00,887/- claimed by the appellant on the facts and circumstances of the case.

10. Without prejudice, the authorities below ought to have allocated the interest paid to various business and house property income and accordingly, allow the claim of Rs. 7,00,887/- on the facts and circumstances of the case.

3. Brief relevant facts are that the AO has noted on page 2 of the assessment order that the assessee is a proprietor of M/s Nandini Silks. He has also noted

that the assessee had filed the Trading and P & L Account and Balance Sheet of the proprietary concern M/s Nandini Silks and the Income & Expenditure Account of the assessee individual. Thereafter, the AO has noted the amount of income shown by the assessee at Rs. 256,330/- which included House Property income Rs. 430,171/-, Income from Business Rs. 556,648/- (Including Profit from Nandini Silk Rs. 320,159/- and profit from Civil Contacts Rs. 236,849/-) and claimed loss of Rs. 650,499/- under the head income From Other Sources after adjusting Interest income of Rs. 50,388/-. Thereafter the AO has noted that the assessee has claimed deduction of Rs. 458,323/- being interest on business loan being unsecured loans and interest on G. E. Finance Loan Rs. 242,566/- total interest claimed Rs. 700,889/-. The assessee claimed deduction of this interest amount of Rs. 700,889/- u/s 57. The AO asked the learned AR of the assessee in course of assessment proceedings as to why this interest claim u/s 57 should not be disallowed because it is not incurred for earning of interest income. No reply was filed by the AR of the assessee on this issue. The AO disallowed the interest expenditure of Rs. 700,889/- claimed by the assessee. Being aggrieved, the assessee carried the matter in appeal before CIT (A) but without success. Now the assessee is in further appeal before the tribunal.

4. Learned AR of the assessee submitted that the assessee could not reconcile the exact amount of loan used for acquiring house property or for business income. He pointed out that the Balance Sheet of the assessee is available on page 18 of the paper book and as per the same, there are four unsecured loans on which the interest in question is paid by the assessee. He submitted these loans are 1) G. E. Money Financial Rs. 15,87,194/-, 2) SMT Anuradha Rs. 19,25,654/-, 3) S V Sureshkumar (HUF) Rs. 18,03,323/- and 4) Rukmini Bai Rs. 385,433/- Total Loan Rs. 57,01,604/-. At this juncture, the bench pointed out that the total opening capital of M/s Nandini Silks is Rs. 21,07,973/- and the addition in the present year is of profit only. The bench observed that even if the assessee is able to establish that this entire capital of M/s Nandini Silks is out of interest bearing borrowed funds than also, the assessee has to explain the user of the balance amount of interest bearing borrowed funds. He submitted that there user of interest bearing borrowed funds for contact business and also for house property. He submitted that if the matter is restored back to AO, the assessee will be able to establish the user of interest bearing borrowed funds for earning business income or for house property. Learned DR of the revenue supported the order of AO & CIT (A).

5. I have considered the rival submissions. In the light of above discussion, I Feel that in the interest of justice, the mater should go back to the AO for a fresh decision. I feel so because it comes out that earlier, the assessee claimed the deduction u/s 57 but now the claim of the assessee is this that interest expenditure should be allowed partly against business income and partly against income from house property. On this aspect, there was no claim before the lower authorities and therefore, they have not examined the claim on this line but if an individual assessee who does not have the help of professionals has not put forward his case properly in the first round and he ask for one more opportunity to put forward his case properly, the opportunity should be allowed because it will not cause any prejudice to the revenue. Hence, I set aside the order of CIT (A) and restore this matter to the AO for a fresh decision with the direction that sufficient opportunity should be provided by the AO to the assessee and the assessee should provide complete detail with cogent evidence in respect of utilization of interest bearing borrowed funds and then the AO should pass necessary order as per law.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

**Sd/-**  
**(A.K. GARODIA)**  
**ACCOUNTANT MEMBER**

Bangalore

D a t e d : 08.05.2019

/MS/

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A), Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order,

AR, ITAT, Bangalore