

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, 'SMC', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य  
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 836/Chd/2018

निर्धारण वर्ष / Assessment Year : 2008-09

Ravi Bindal & Madan Lal Chaudhary, HIG-3, Sector 1A, Parwanoo Distt. Solan (H.P.)	Vs. बनाम	The ITO, Parwanoo
स्थायी लेखा सं./PAN NO: AAKFR1027J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Sh Surinder Babbar, CA  
राजस्व की ओर से/ Revenue by : Sh. Manjit Singh, CIT DR

सुनवाई की तारीख/Date of Hearing : 06.06.2019  
उद्घोषणा की तारीख/Date of Pronouncement : 06.06.2019

**आदेश/Order**

The present appeal has been preferred by the assessee against the order dated 27.04.2018 of the Commissioner of Income Tax (Appeals), Shimla [hereinafter referred to as 'CIT(A)'].

2. The assessee in this appeal has taken following grounds of appeal:-

*1. That on the facts and circumstances of the case, the order passed by the Ld. A.O. and the Ld. CIT(A) in concurrence with that of the Ld. Assessing Officer is wrong, against facts and specific provisions of law.*

*2. That on the facts and circumstances of the case, the Ld. CIT(A) is not at all justified in upholding the addition of Rs. 8,68,216/- in respect of disallowing interest claimed under 'Income from House Property.'*

3. The sole issue involved in this appeal is relating to the disallowance of interest expenditure claimed by the assessee as deduction against the rental income earned from House Property as per provisions of section 24 of the Income Tax Act, 1961 (in short 'the Act').

The assessee during the year earned a total rental income from house property of Rs. 14.49 lacs. The assessee claimed a deduction of Rs. 8,68,216/- on account of interest expenditure incurred for acquisition and construction of house property as allowable under the provisions of section 24 of the Act. A perusal of the impugned order of the CIT(A) reveals that the Ld. CIT(A) has rejected the aforesaid claim of the assessee on two grounds; firstly, that the assessee has not placed the copy of the relevant loan agreement / bank papers to show that the aforesaid loan was taken for acquisition / construction of the house property in question; secondly, that even otherwise the total investment in the building including lift as per the balance sheet was of Rs. 1,40,75,414/-, however, the assessee claimed the deduction of interest expenditure on a total loan of Rs. 1.61 crores.

4. The Ld. Counsel for the assessee has submitted that he is ready to produce the relevant evidence before the Assessing Officer to show that the aforesaid loan was taken for acquisition / construction of the building in question.

So far as the contention raised by the Ld. CIT(A) that as against the total loan of Rs. 1.61 cores, the assessee has incurred expenditure of Rs. 1.40 crores on the building, the Ld. Counsel for the assessee has submitted that the assessee has taken loan in two parts. In first part, a loan of Rs. 70 lacs was taken which was fully utilized, however, out of the second loan amount of Rs. 1 crore, the assessee utilized most of the amount except some amount which was deposited in the shape of FDR with the bank to be used as and when required. The Ld. Counsel for the assessee has submitted that the assessee may be allowed to demonstrate before the Assessing Officer as to exactly what amount of loan was used for acquisition / construction of the building and that how much of proportionate disallowance is attracted, considering the date of the loan sanctioned and date of utilization of the same etc.

5. I find force in the above submissions of the Ld. Counsel for the assessee and considering the same, I accordingly set aside the order of the CIT(A) and restore the matter to the file of the Assessing Officer to examine the limited aspects as noted above and to decide the matter afresh on this issue in accordance with law.

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

Order dictated and pronounced in the Open Court immediately on completion of hearing.

Sd/-

(संजय गर्ग / SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

**Dated : 06.06.2019**

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,

सहायकपंजीकार/ Assistant Registrar