

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD òSMCö BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA No. 2610/Ahd/2017
Assessment Year 2014-15**

Shri Nitish Prafulchandra Agarwal, 3, Kanakdhara Bunglows, Opp. Kalhar Bunglows, Nandoli, Shilaj, Ahmedabad-380058 PAN: AGWPA6842Q (Appellant)	Vs	The ITO, Ward-3(3)(3), Ahmedabad (Respondent)
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**Revenue by: Shri Keyur Patel, Sr. D.R.
Assessee by: Shri S.N. Divatia, A.R.**

Date of hearing : 14-06-2019
Date of pronouncement : 27-06-2019

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2014-15, arises from order of the CIT(A)-3, Ahmedabad dated 15-09-2017, in proceedings under section 143(3) of the Income Tax Act, 1961; in short òthe Actö.

2. The solitary ground of appeal of the assessee is filed against the order of ld. CIT(A) in confirming the disallowance of Rs. 6,24,008/- made by the

assessing officer as per assessment order passed u/s. 143(3) of the act on 18th December, 2016.

3. The fact in brief is that assessee has filed return of income declaring income of Rs. 17,72,060/- on 28th Sep, 2014. The case was subject to scrutiny assessment. During the course of assessment proceedings on verification of the submission of the assessee, the assessing officer noticed that assessee has shown interest receipt of Rs. 11,88,870/- and interest payment of Rs. 18,21,878/-. The assessee has not explained that difference in payment of interest, therefore, the excess interest payment of interest of Rs. 6,24,008/- was disallowed and added to the total income of the assessee.

4. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee. The relevant part of the finding of the Id. CIT(A) is reproduced as under:-

“4. Decision: I have considered the facts mentioned in the assessment order and the submission of the appellant carefully. The appellant submitted that actual interest payment is at Rs.10,24,204/-and the interest receivable is at Rs. 4,00,196/-. It is found that there is entry of Rs.7,88,674.12 both on credit and debit side of P & L Account. Hence the contention of interest outgo in aggregate at Rs.10,24,204/- is found to be correct.

Further, it was submitted that the differential interest of Rs.6,24,008/- should be allowed as the appellant is having share income and remuneration from M/s. Sicilian Ventures. The fund flow analysis has not been submitted so as to prove that certain borrowed funds by the appellant have been utilized for investment in partnership firm from where the remuneration etc. is being received which cannot be held as non taxable. The submission is not supported by facts and figures. In view of this, the contention raised by the appellant is hereby rejected.

The AO has made addition with proper justification, however, the figures only required to be adjusted as per narratives above. The appellant has also not relied on the ratio of any case law so as to get the benefit provided the ratio is supporting his case. I also don't find any finding favouring appellant on this issue even in other assessment years. Therefore, the disallowance of Rs.6,24,008/- is confirmed as the borrowed funds have not been proved in any manner to have been utilized for earning taxable income. The grounds of appeal are dismissed.”

5. We have heard the rival contentions and perused the material on record carefully. During the course of assessment, the assessing officer

noticed that assessee was having interest income of Rs. 11,88,870/-, however, he had claimed interest expenses to the amount of Rs. 18,21,878/- which resulted in excess deduction of interest payment to the amount of Rs. 6,24,008/-. The assessee could not explain the difference of Rs. 6,24,008/- , therefore, the same was added to the total income of the assessee. After perusal of the detailed findings of the Id. CIT(A) as elaborated above in this order, we consider that assessee could not demonstrate with relevant material that the borrowed funds were used for investment in the partnership firm which the non-taxable remuneration was received. In the light of the above facts and circumstances, we do not find any infirmity in the decision of the Id. CIT(A), therefore, the appeal of the assessee is dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 27-06-2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 27/06/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश क०० तलम अ० षत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,
उप/सहायक पंजीकार
आयकर अपील अ० अधकरण,
अहमदाबाद