

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai**

Before Shri B.R. Baskaran, Accountant Member

ITA No. 3910/Mum/2018
(Assessment Year: 2012-13)

Shri Kerul Kiran Parikh Assistant Commissioner
517, Chandralok B of Income Tax – 19(2)
Manav Mandir Road Vs. Mumbai
Malabar Hill
Mumbai 400006

PAN – AABPP4734D

Appellant

Respondent

Appellant by: Shri Bhupendra Shah
Respondent by: Shri Chaitanya Anjaria

Date of Hearing: 16.07.2019
Date of Pronouncement: 16.07.2019

ORDER

Per B.R. Baskaran, AM

The appeal of the assessee is directed against the order dated 19-03-2018 passed by Ld CIT(A)-3, Mumbai and it relates to the assessment year 2012-13. The assessee is aggrieved by the decision of Ld CIT(A) in confirming disallowance of interest expenditure of Rs.5.71 lakhs claimed by the assessee.

2. I heard the parties and perused the record. The AO noticed that the assessee has claimed interest expenditure of Rs.5,71,177/- against interest income of Rs.23,222/- . The AO asked the assessee to justify the claim. The assessee submitted that he had taken loans to purchase a flat. He also submitted that he has also invested

funds in two partnership concerns and one proprietary concern. Accordingly, the assessee submitted that the interest income may be adjusted against business income or house property income. The AO rejected the claim of the assessee and accordingly disallowed interest expenditure of Rs.5.71 lakhs. The Ld CIT(A) also confirmed the same.

3. I notice from the record that the assessee has claimed to have used the loan funds to part finance purchase of flat. He has also stated that he has made investments in two partnership concerns and one proprietary concern. It is well settled proposition that the interest payable on loan is deductible, if the loan is used for earning income. The interest payable on loan borrowed for purchase of flat is deductible u/s 24 against income from house property. Similarly, if the loan is invested in business, the interest is deductible against business income.

4. In the instant case, I notice that the assessee has not demonstrated the nexus between the loan funds and the investment made in flat/business concern. Without showing the said nexus, it would be difficult for anyone to accept the claim for deduction of interest. Since it involves verification of factual aspects, I am of the view that this issue needs to be examined afresh. Accordingly I set aside the order passed by Ld CIT(A) and restore the same to the file of the AO for examining the claim of the assessee. I also direct the assessee to furnish the details of usage of loan funds and also explain the section under which the interest expenditure/part of interest expenditure is allowable. After examining the submissions of the assessee, the AO may take appropriate decision in accordance with the law.

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

Order pronounced in the open court on 16th July, 2019.

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai, Dated: 16th July, 2019

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -3, Mumbai*
4. *The Pr.CIT - 1, Mumbai*
5. *The DR, "SMC" Bench, ITAT, Mumbai*

By Order

//True Copy//

Assistant Registrar
ITAT, Mumbai Benches, Mumbai

n.p.