

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE
BEFORE HON'BLE KUL BHARAT, JUDICIAL MEMBER
AND HON'BLE MANISH BORAD, ACCOUNTANT MEMBER

ITA No. 281/ Ind/2017
Assessment Year 2012-13
PAN : AGJPB0022G

Shri Manjeet Singh Bhatia, V/s DCIT-1(1),
8/5, Manoramaganj, Indore
BCC House,
Navratanbagh Main Road,
Indore

(Appellant)

(Respondent)

Revenue by	Shri V.J. Boricha, Sr.DR
Assessee by	Shri Harsh Vijayvargiya, CA
Date of Hearing	06.08.2019
Date of Pronouncement	07.08.2019

ORDER

PER MANISH BORAD, A.M.

The above captioned Appeal filed at the instance of the assessee pertaining to Assessment Years 2012-13 is directed against the orders of Ld. Commissioner of Income Tax (Appeals)-III (in short 'Ld.CIT(A)'), Indore dated 30.01.2017 which is arising out of the order u/s 143(3) of Income Tax Act, 1961 dated 27.03.2015 framed by DCIT-1(1), Indore.

2. Assessee has raised following grounds of appeal;

“1. That on the facts and circumstances of the case Ld. CIT(A) has erred in disallowing an amount of Rs.2,58,656 as interest paid towards unsecured loans to three parties.

2. That on the facts and circumstances of the case Ld. CIT(A) has erred in disallowing expenditure of Rs.57,025 under Rule 8D.

3. That the order so passed is bad in law and wrong.

4. That the assessee craves your honors permission to add alter or delete any grounds of appeal.”

3. At the outset Ld. Counsel for the assessee submitted that Ground No.1 of the instant appeal relates to disallowance of interest paid on unsecured loans to three parties. The unsecured loans were taken during the financial year 2009-10 relevant to Assessment Year 2010-11 and addition u/s 68 of the Act for unexplained cash credit was made during the year 2010-11 and the assessee is in appeal before Ld. CIT(A) against the addition for unexplained cash credit u/s 68 of the Act at Rs.30,00,000/-. The appeal before Ld. CIT(A) for Assessment Year 2010-11 is still pending. He also submitted that the genuineness of the claim of interest expenditure will have its bearing from the finding of Ld. CIT(A) for treatment of the unsecured loan, whether chargeable to tax u/s 68 of the Act or not. He

therefore requested to set aside the issue of interest disallowance raised in this appeal to the file of Ld. CIT(A).

4. Per contra Ld. Departmental Representative vehemently argued and supporting the order of Ld. CIT(A) but did not controvert the contention made by the Ld. Counsel for the assessee.

5. We have heard rival contention and perused the records placed before us.

6. In this appeal of the assessee two grounds have been raised. Ground No.1 relates to disallowance of interest expenditure of Rs.2,58,658/- and Ground No.2 relates to disallowance of expenditure of Rs.57,025/- u/s 14A of the Act. After hearing the contentions of the Ld. Counsel for the assessee we observe that Ground No.1 which relates to disallowance of interest expenditure paid on the unsecured loan have its nexus with the appeal of the assessee pending before Ld. CIT(A) for Assessment Year 2010-11 wherein the assessee has challenged the action of the Ld. A.O of making addition u/s 68 of the Act for unsecured loans of Rs.30,00,000/- taken during the year. It is also pleaded that the alleged interest expenditure is claimed on the loan taken during Assessment Year 2010-11. Copy of appeal in Form No.35 filed before

Ld. CIT(A)-1, Indore for Assessment Year 2010-11 is placed on record. The issue relating to addition u/s 68 of the Act at Rs.30,00,000/- for Assessment Year 2010-11 is still not been decided by Ld. CIT(A). In the given facts and circumstances of the case and since no objection has been raised by Ld. Departmental Representative, we are of the considered view that all the issues raised in the instant appeal in Ground No.1 & Ground No.2 may be set aside to the file of Ld. CIT(A) for afresh adjudication so that Ld. CIT(A) could decide the issues along with the pending appeal relating to quantum of unsecured loan for Assessment Year 2010-11. Needless to mention that proper opportunity of being heard should be provided to the assessee.

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

The order pronounced in the open Court on 07.08.2019

Sd/-

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated : 07 August, 2019
/Dev

Manjeet Singh Bhatia
ITA No. 281/Ind/2017

Copy to: The Appellant/Respondent/CIT concerned/CIT(A)
concerned/ DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore