

आयकर अपीलिय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष  
**BEFORE SHRI D. KARUNAKARA RAO, AM**

आयकर अपील सं. / ITA No.1962/PUN/2017  
निर्धारण वर्ष / Assessment Year : 2012-13

Sankalp Subhash Goel,  
850/8, Archana Aboli Apartments,  
Sathe Path, Bhandarkar Road,  
Pune-411004.

PAN : AKJPG1190Q

.... अपीलार्थी/Appellant

Vs.

ITO (HQ)-2(1),  
Pune.

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri V. L. Jain  
प्रत्यर्थी की ओर से / Respondent by : Shri N. Ashok Babu

सुनवाई की तारीख / <b>Date of Hearing : 05.09.2019</b>	घोषणा की तारीख / <b>Date of Pronouncement: 12.09.2019</b>
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**आदेश / ORDER**

**PER D. KARUNAKARA RAO, AM :**

This appeal is filed by the assessee against the order of CIT(A)-3,  
Pune dated 04.08.2017 for the Assessment Year 2012-13.

2. The effective ground raised by the assessee is as under :-

“1. The learned CIT(A) has erred in law and facts in confirming the disallowance of proportionate interest of Rs.3,80,697/- for the reason that the Cash Credit facility was in the name of three members.”

3. Briefly stated the relevant facts include that the assessee is partner in various partnership firms earns the share income. Further, assessee

also earns the interest income on the deposits. The assessee filed the return of income declaring total income of Rs.3,29,034/-. During the course of assessment proceedings, the Assessing Officer noticed that the assessee maintained an "overdraft" account with Union Bank of India, Khadki Branch. The said account is a joint account opened along with Shri Subhash K. Goel, Smt. Usha Goel. Further, Assessing Officer noticed that assessee claimed the interest expenditure of Rs.5,71,046/- against the 'income from other sources'. After obtaining the confirmation from the Bank Manager on the above claim, Assessing Officer objected to the said claim of set off of interest expenditure of Rs.5,71,046/- against 'income from other sources'. The Assessing Officer is of the opinion only 1/3<sup>rd</sup> of the said Rs.5,71,046/- alone is allowable. Accordingly, Assessing Officer added the income of Rs.3,80,697/- to the income returned by the assessee.

4. The CIT(A) confirmed the same. However, none of the I.T. Authorities examined the use of the account and use of the Over Draft of the said account.

5. Aggrieved, the assessee is in appeal before the Tribunal with the ground extracted above.

6. Before me, ld. AR for the assessee filed the Paper Book. Referring to the bank statement of the said Over Draft Account, ld. AR submitted that the Over Draft facility was substantially availed by the assessee and not by Shri Subhash K. Goel and Smt. Usha Goel. Further, ld. AR submitted that the entire interest expenditure is relatable to the withdrawal of the funds

from Over Draft Account for the purpose of the assessee and, therefore, the same is allowable. In this regard, ld. AR travelled us through each of the transactions in the said Over Draft Account. Eventually, ld. AR submitted that the grounds raised in the appeal may be remanded to the file of the Assessing Officer for fresh examination of the issue.

7. On the other hand, ld. DR for the Revenue relied heavily on the orders of the Assessing Officer and the CIT(A).

8. Heard both the sides relating to the allowability of 1/3<sup>rd</sup> interest expenditure only against the assessee's gross interest claim of Rs.5,71,046/-. On perusal of the bank statement furnished before me, it is evident that undisputedly, the account is held in joint names of Shri Subhash K. Goel and Smt. Usha Goel and the assessee. However, scrutiny of each transaction of withdrawal of funds from the said Over Draft Account *qua* the use of the said funds, it is noticed that the account was prominently used by the assessee only and not used by the joint owners. However, as suggested by the ld. AR, there is requirement of examining each of the transaction in the said Joint Account, withdrawal of funds and use of the funds/quantification of the amount of funds used by the assessee and relatable interest expenditure pertaining to the assessee. After thorough examination only, the relatable interest expenditure should be allowable. Further, I am of the opinion that the Assessing Officer's approach of ad-hoc disallowance i.e. 1/3<sup>rd</sup> of the total claim of expenditure is not prima-facie sustainable for the reason that the Over Draft Account is

prominently used by the assessee only. With these directions, I am of the opinion that the matter raised in the appeal should be remanded to the file of the Assessing Officer for fresh examination. Needless to say, the Assessing Officer shall grant reasonable opportunity of being heard to the assessee during the remand proceedings. Thus, the ground raised by the assessee is allowed for statistical purposes.

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

Order pronounced on this 12<sup>th</sup> day of September, 2019.

**Sd/-**  
**(D. KARUNAKARA RAO)**  
**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक Dated : 12<sup>th</sup> September, 2019.  
*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-3, Pune;
4. The Pr. CCIT, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "एक-सदस्य मामला" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune