

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.7729/Del./2018  
Assessment Year 2015-2016

M/s. Reliance Estate Agency, Faridabad. PAN AABFR2855B C/o. M/s. RRA TAXINDIA, D-28, South Extn., Part-1, New Delhi – 110 049.	vs.,	The Income Tax Officer, Ward – 2 (2), Faridabad.
		(Respondent)

For Assessee :	Shri Somil Aggarwal And Shri Deepesh Garg, Advocates
For Revenue :	Shri Pradeep Singh Gautam, Sr. D.R.

Date of Hearing :	13.11.2019
Date of Pronouncement :	13.11.2019

**ORDER**

This appeal by Assessee has been directed against the Order of the Ld. CIT(A), Faridabad, Dated 29.10.2018, for the A.Y. 2015-2016, challenging the disallowance of interest of Rs.2,42,099/- under section 36(1)(iii) of the Income Tax Act, 1961.

2. Briefly the facts of the case are that assessee firm produced the books of account and relevant details before

A.O. which have been examined. The assessee is engaged in a real estate agent business in the name of firm Reliance Estate Agency. It is case of audited accounts and gross turnover/gross receipts during the year was at Rs.1.01 crores. On perusal of the balance-sheet, it was revealed that assessee has paid interest to the tune of Rs.10,75,027/-. The assessee has also given advance to the following parties

:

(i)	Advance recoverable in cash or kind	Rs.14,24,951/-.
(ii)	IRIS Real Estate Pvt. Ltd.,	Rs.2,72,541/-.
(iii)	Alka Jhamb	Rs.1,01,412/-
	Total –	Rs.20,17,492/-.

2.1. The A.O. noted that assessee has not charged interest from these parties. The A.O, therefore, asked the assessee as to why interest be not disallowed. The assessee stated before the A.O. that such advances were made out of its own reserves. The A.O. however, did not accept the

contention of assessee and disallowed rs.2,42,099/-. The Ld. CIT(A) confirmed the addition.

3. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and referred to PB-7 which is balance-sheet for the assessment year under appeal in which the capital of the partners is of Rs.97,35,252/-. PB-8 is P & L A/c which shows the net profit of the assessee is Rs.48,47,786/-. PB-19 is details of loans and advances to show Rs.14,24,951/- are the opening balance pertaining to DLF Universal Ltd., Rs.12,000/- and Mr. S.D. Kathuria Rs.14,12,951/-. He has, therefore, submitted that since no interest have been disallowed in earlier year and assessee has sufficient balance, therefore, whole addition is unjustified. He has relied upon Judgment of Hon'ble Karnataka High Court in the case of Commissioner of Income Tax vs., Sreedev Enterprises 192 ITR 165 (Kar.) in which it was held that if claim of assessee is not disallowed in earlier year, no addition could be made. He has also relied upon Judgment of Hon'ble Supreme Court in the case of Commissioner of Income Tax vs., M/s.

Reliance Industries Ltd., Dated 02.01.2019 in which it was held that *“hence, it could be presumed that the investments were made from the interest free funds available with the assessee, therefore, no disallowance is permissible.”*

4. On the other hand Ld. D.R, relied upon the Orders of the authorities below.

5. I have considered the rival submissions and do not subscribe the view of the authorities below. Admittedly the assessee has sufficient funds in partners capital account as well as sufficient profit declared in assessment year which is sufficient to make interest free advance. Further, substantial amount of Rs.14,24,951/- is coming from the earlier year and is opening balance in assessment year under appeal. Since no interest have been disallowed in earlier year, therefore, Judgment of Hon'ble Karnataka High Court in the case of Commissioner of Income Tax vs., Sreedev Enterprises (supra), is applicable to the facts of the case. Therefore, no disallowance could be made of interest on this amount. The rest of the amount is very negligible as against the assessee's own capital and profit earned during

the assessment year under appeal. In view of the above, I set aside the Orders of the authorities below and delete the addition.

6. In the result, appeal of Assessee allowed.

Order pronounced in the open Court.

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 13<sup>th</sup> November, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "SMC" Bench
6.	Guard File

// BY Order //

Asst. Registrar : ITAT Delhi Benches :  
Delhi.