

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC' NEW DELHI**

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 1173/Del/2019
Assessment Year: 2014-15

GAGAN GANDHI,
F-63, LAJPAT NAGAR-I,
NEW DELHI
(PAN: ABIPS7399P)
(ASSESSEE)

vs. INCOME TAX OFFICER,
WARD-54(1),
NEW DELHI

(RESPONDENT)

Assessee by: None

Revenue by: Sh. Pradeep Singh Gautam, Sr. DR.

ORDER

This appeal is filed by the assessee against the Order dated 07.12.2018 passed by the Ld. CIT(A)-18, New Delhi relating to Assessment Year 2014-15 on the following grounds:-

1. Under the facts and circumstances of the case, the appellate order passed by the Ld. CIT(A) is illegal being against the principles of natural justice and against the provisions of I.T. Act, 1961.
2. The Ld. CIT(A) has grossly erred on facts as well as in law in restricting the disallowance to the proportionate interest with regard to the interest free advance of Rs. 73,43,526/- given by the appellant u/s. 36(1)(iii) of the I.T. Act.

3. The Ld. CIT(A) has grossly erred on facts as well as in law in ignoring the facts that disallowance u/s. 36(1)(iii) cannot be made if assessee has got sufficient interest free funds.
4. The appellant craves leave to add, alter, modify and withdraw any ground of appeal before or during the appellate proceedings.

2. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor his authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, I am of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, I am deciding the present appeal exparte qua assessee, after hearing the Ld. DR and perusing the records.

3. Ld. DR relied upon the orders of the authorities below.

4. I have heard Ld. DR and perused the records available with me especially the impugned order passed by the Ld. CIT(A). I find considerable cogency in the contention raised in the grounds of appeal that Ld. CIT(A) has ignored the fact that disallowance u/s. 36(1)(iii) cannot be made if assessee has got sufficient interest free funds and did

not give proper opportunity to the assessee to substantiate his case. Keeping in view of the fact and circumstances of the case, the issues in dispute are set aside to the file of the Ld. CIT(A) with the directions to decide the same afresh, after considering all the evidences/documents and give adequate opportunity of being heard to the assessee. Assessee is also directed to fully cooperate with the Ld. CIT(A) and did not take any unnecessary adjournment and file all the necessary documentary evidences before him.

5. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on 20/11/2019.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 20/11/2019

"SRB"

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches