



IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI

BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA no.4396/Mum./2018
(Assessment Year : 2013-14)

Shri Anil K. Shah
703, 7th Floor, Suparshva
Sarvoday Nagar, Nahur Road
Mulund (W), Mumbai 400 080
PAN – AAPPS6042M

..... Appellant

v/s

Income Tax Officer
Ward-29(1)(1), Mumbai

..... Respondent

Assessee by : Shri Devendra Jain
Revenue by : Shri S. Michael Jerald

Date of Hearing – 10.12.2019

Date of Order – 13.12.2019

ORDER

PER M. BALAGANESH, A.M.

The present appeal has been filed by the assessee challenging the order dated 20th March 2018, passed by the learned CIT(A)-39, Mumbai, for the assessment year 2013-14.

2. The only issue to be decided in this appeal of the assessee is, whether or not the learned CIT(A), in the facts and circumstances of the case, was justified in upholding the action of the Assessing Officer

in disallowance of interest expenditure of ₹ 6,11,994, paid by the assessee on borrowed funds.

3. We have considered rival submissions and perused the material available on record. We find that the assessee is a proprietor of M/s. K.J. Steels, engaged in the business of trading and during the year under consideration, the assessee had derived income from other sources. The return of income for the assessment year 2013-14 was filed by the assessee on 27th March 2014, declaring total income of ₹ 3,00,140. We find that in the said return of income, the assessee had claimed deduction under section 57(iii) of the Income Tax Act, 1961 (for short "*the Act*") in respect of interest paid in the sum of ₹ 6,11,994. The Assessing Officer directed the assessee to substantiate the nexus between the interest received on fixed deposit by the assessee and the interest paid on borrowed fund as above along with documentary evidences. The assessee, vide letter dated 3rd March 2016, gave a response before the Assessing Officer. On a perusal of the details furnished by the assessee, the Assessing Officer observed that the assessee had paid interest to various parties against loan taken by him to the tune of ₹ 5,46,617, and interest paid on overdraft amounting to ₹ 65,337, thereby totaling to ₹6,11,994, towards interest paid. We find that the Assessing Officer had observed that the assessee had not clearly demonstrated the nexus between the interest

income with the interest paid on borrowed funds so as to make him eligible for deduction under section 57(iii) of the Act. Accordingly, the Assessing Officer made disallowance of interest paid under section 57(iii) of the Act in the sum of ₹ 6,11,994, while completing the assessment. This action of the Assessing Officer was upheld by the learned Commissioner (Appeals).

4. We find that the learned Authorised Representative had pleaded that the assessee had earned interest income on fixed deposit to the tune of ₹ 9,49,659. This fact is also evident from the computation of total income enclosed in Page-25 of the paper book filed by the assessee. The learned Authorised Representative also pleaded that the loans borrowed by the assessee were utilized for making investment in fixed deposit which in turn had fetched interest income to the assessee. Accordingly, he argued that the nexus between the interest paid and interest received stand established. The learned Authorised Representative, however, fairly conceded that let this aspect to be factually verified by the Assessing Officer afresh. When this was put before the learned Departmental Representative, he vehemently relied upon the orders of the authorities below. Considering the totality of the facts and circumstances of the case, we deem it fit and proper in the interest of justice and fair play to remand this issue to the file of the Assessing Officer for denovo adjudication in accordance with law.

The assessee is at liberty to furnish necessary evidences in support of his contentions. Accordingly, ground raised by the assessee is allowed for statistical purposes.

5. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in the open Court on 13.12.2019

Sd/-
MAHAVIR SINGH
JUDICIAL MEMBER

Sd/-
M. BALAGANESH
ACCOUNTANT MEMBER

MUMBAI, DATED: 13.12.2019

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai