

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "SMC" BENCH, HYDERABAD**

BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER

**ITA No. 1538/HYD/2018
(Asst. Year : 2013-14)**

Ganga Rathi, vs. ITO, Ward-4(4),
D.No. 3-2-840/A, Kachiguda, Hyderabad.
Hyderabad.

PAN No. ADGPR 5128 K (Appellant) (Respondent)

Assessee by : Shri Bhupesh Kumar Dand, AR
Department By : Shri Nilanjan Dey, Sr.DR

Date of hearing : 04/12/2019.
Date of pronouncement: 22/01/2020.

ORDER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-1, Hyderabad, dated 16/05/2018 for the Assessment Year 2013-14.

2. The only issue involved in this appeal relates to disallowance of interest of Rs. 9,24,393/- u/sec. 57 of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

3. During the course of assessment proceedings, the Assessing Officer has noticed that the assessee has admitted interest income of Rs. 9,24,393/- and claimed the expenditure towards interest u/sec. 57 at Rs. 9,24,393/-. The Assessing Officer asked the

assessee to furnish the detailed analysis showing the nexus between the interest received and interest paid. In response, the assessee has filed a reply dated 19/01/2016 by stating that he has received interest on loans and advances etc. of Rs. 9,24,393/- and paid a sum of Rs. 10,53,203/- as interest to Standard Chartered Bank. Since he received lower interest than interest paid, the same has been restricted to interest received of Rs.9,24,393/- only as in last year. The Assessing Officer after considering the explanation asked the assessee to substantiate and to prove that the interest amount of Rs. 9,24,393/- is wholly and exclusively spent to earn the interest income i.e. the utilization of the amount borrowed from Standard Chartered Bank to which interest is paid with supporting evidence. In response, the assessee has submitted the following detailed reply:-

(1) It is fact on record that year upon year, part of the loan taken from bank against the property has been utilized for making advances on which I am earning certain interest. The claim of interest paid to the bank is restricted to the interest received from the aforesaid advances in the balance sheet debited to capital account. The same has been accepted for the A. Y.2009-10 which has been completed u/s. 143(3) of the Act. Even today, there is no change in the fact.

Without prejudice to the above, as far as loans and advances appearing in the balance sheet are concerned from whom I am received interest are subrogation from earlier debtors/or are same. Since, part of borrowed money is utilized for making advances, the claim of interest against such advance paid to bank is an allowable u/s57 of the Act. It would not be out of place to mention herein that advances made are before March 2009 wherein the nexus has been established and the same was

allowed. From 2009-10 onwards subrogation of certain debtors has been happened and as such the claim of my interest against such debts/debtors is an allowable expenditure. As far as the year under consideration is concerned, details of loans and advances explaining the nature thereof is appended hereunder....."

However, the Assessing Officer has not accepted the explanation of the assessee on the ground that assessee has failed to prove the nexus between the borrowed funds and funds advanced and also found that assessee has failed to bring any evidence to allow the deduction claimed by the assessee. Therefore, disallowed the deduction of Rs. 9,24,393/- u/sec. 57 of the Act and added back to the total income of the assessee.

4. On appeal, Id. CIT(A) confirmed the order of the Assessing Officer on the ground that assessee has not filed balance sheet, bank statement or details of the concerned loans/interest given and received.

5. Before me, Id. counsel for the assessee has submitted that assessee has filed all the details such as balance sheet, bank account statement, details of concerned loans, interest given and received before the Assessing Officer as well as the Id. CIT(A). The Id. CIT(A) without considering the same, simply confirmed the order of the Assessing Officer.

6. On the other hand, Id.DR strongly supported the orders of the authorities below.

7. I have heard both the sides, perused the material available on record and orders of the authorities below.

8. The only issue involved in this appeal relates to disallowance of Rs. 9,24,393/- u/sec. 57 of the Act. The case of the Assessing Officer is that assessee has failed to prove the nexus between the interest received and interest paid not only that but also failed to produce evidence in respect of interest received and paid. On appeal, Id. CIT(A) confirmed the order of the Assessing Officer on the ground that assessee has not filed the balance sheet, bank account statement or details of concerned loans and interest paid and received. Id. counsel for the assessee has submitted that all the details are furnished before the authorities below. In view of the submissions made, I find that in the interest of justice it is necessary for the Id. CIT(A) to examine the details as submitted by the assessee which are necessary to decide the appeal. I, therefore, set aside the order passed by the Id. CIT(A) and remit the matter back to him with a direction to adjudicate the appeal afresh in accordance with law after examining the details. It is also directed the assessee to file all the necessary details before

the Id. CIT(A) even if he filed earlier. Thus, this appeal filed by the assessee is allowed for statistical purpose.

9. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order Pronounced on this 22nd day of Jan., 2020.

Sd/-
(V. DURGA RAO)
Judicial Member

Dated: 22nd January, 2020.

vr/-

Copy to:

1. *The Assessee - Ganga Rathi, D.No. 3-2-840/A, Kachiguda, Hyderabad.*
2. *The Revenue - ITO, Ward-4(4), Hyderabad.*
3. *The Pr.CIT-1, Hyderabad.*
4. *The CIT(A), Hyderabad.*
5. *The D.R., Hyderabad.*
6. *Guard file.*

By order

Sr. Private Secretary,
ITAT, Visakhapatnam.