

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri Shamim Yahya (AM) & Shri Pawan Singh (JM)

I.T.A. No. 983/Mum/2019 (Assessment Year 2014-15)
I.T.A. No. 984/Mum/2019 (Assessment Year 2015-16)

M/s. Vishnulaxmi Silk Mills C/o. D.C. Jain & Co. 75, Bombay Mutual Building 293, Dr. D.N. Road, Fort Mumbai-400 001. PAN : AAAPV3106C (Appellant)	Vs.	ITO 18(3)(5) Room No. 605 6 th Floor Earnest House Nariman Point NCPA MARG Mumbai-400021. (Respondent)
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Assessee by	Shri S.D. Pathak
Department by	Shri Akhtar H. Ansari
Date of Hearing	10.10.2019
Date of Pronouncement	06.01.2020

ORDER

Per Shamim Yahya (AM) :-

These are appeals by the assessee wherein the assessee is aggrieved by the order of learned CIT(A) for the respective assessment years 2014-15 & 2015-16 wherein learned CIT(A) has sustained the disallowance of interest to the parties covered u/s. 40A(2)(b) of the Act.

2. Brief facts of the case are that the Assessing Officer has observed that assessee has paid interest to outsiders at rates starting from 12% and other higher rates. He noted that assessee has paid interest at the rate of 18% to persons covered under section 40A(2)(b) of the Act. Assessing Officer proceeded to disallow interest paid to parties covered u/s. 40A(2)(b) of the Act by holding that the fair market value of the interest should be 12%. Learned CIT(A) upheld the Assessing Officer's order.

3. Against this order the assessee is in appeal before us. We have heard both the counsel and perused the records. Learned Counsel of the assessee

contended that the assessee is obtaining loan from the market at various rates ranging from 18% to 21% in the contemporaneous situation. He submitted that even bank finance is available at the rate of 15%. He further submitted that advances from relatives were obtained at the time of stress. He further submitted that these loans do not require any collateral or complicated documentation. Hence, learned counsel pleaded that no adjustment/disallowance is required in this case u/s. 40A(2)(b) of the Act.

4. Upon hearing both the counsel and perusing the records, we are inclined to agree with the contentions raised by learned counsel of the assessee. On the facts and circumstances of the case on consideration of cogency in the submission of learned Counsel of the assessee in our considered opinion the disallowance of interest to parties u/s. 40A(2)(b) of the Act is not justified. Hence, we direct that the disallowance of interest u/s. 40A(2)(b) be deleted.

5. In the result, both the appeals filed by the assessee stand allowed.
Order has been pronounced in the Court on 06.01.2020.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 05/01/2020

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

PS