

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

**BEFORE
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
&
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.-6291/Del/2016
(Assessment Year: 2012-13)**

M/s. Wool Palace 130-31, Gaffar Market Karol Bagh, New Delhi-05	Vs.	Income Tax Officer, Ward-51(5), New Delhi
Appellant		Respondent

**Assessee by: None
Revenue by: Sh. Umesh Takyar, Sr.DR**

Date of Hearing	31.10.2019
Date of Pronouncement	27.01.2020

ORDER

PER SUDHANSHU SRIVASTAVA, J.M.:

This appeal is preferred by the Assessee against order dated 05.10.2016 passed by the Ld. Commissioner of Income Tax (Appeals)-17, New Delhi {CIT(A)} for assessment year 2012-13.

2.0 The brief facts of the case are that the return of income was filed declaring an income of Rs. 3,46,045/- The case was selected for scrutiny through CASS on the ground that the assessee had incurred huge interest expenses relatable to exempt investment u/s 14A of the Income Tax Act, 1961 (hereinafter called 'the Act'). The assessment was completed at an income of Rs. 8,10,102/- after making a disallowance of Rs. 3,17,057/- on account of proportionate interest on funds used for investment in property. Further disallowance of Rs. 11,9,000/- was made on account of disallowance of proportionate interest on loans and advances given by the assessee which were given out of interest bearing funds but no interest had been charged. A disallowance of Rs. 28,000/- was also made on account of alleged presence of personal element in the expenditure.

2.1 The assessee's appeal before the Ld. CIT (A) was partly allowed wherein the Ld. CIT (A) upheld the disallowance of Rs. 28,000/- on account of presence of personal element in the expenditure. The Ld. CIT(A) also upheld the disallowance of interest to the tune of Rs.

3,17,057/- but gave partial relief by directing the AO to calculate the disallowance on interest free loans given to various persons after allowing a relief of Rs. 27,200/-.

2.2 Now the assessee is before the Tribunal and has challenged the action of the Ld. CIT (A) in partly confirming the disallowances as aforesaid.

3.0 None was present for the assessee when the appeal was called out for hearing nor was any application for adjournment received on behalf of assessee. Looking into the facts and circumstances of the case, we proceed to hear the appeal *ex parte qua* the assessee.

4.0 The Ld. Sr. Departmental Representative supported the order of the Assessing Officer and also submitted that the Ld. CIT (A) had allowed appropriate relief and now no further relief was required to be allowed at this juncture.

5.0 We have heard the Ld. Sr. Departmental Representative and have also perused the orders of the authorities below. It is seen that the lower authorities have not examined issue at hand in proper perspective and the additions have been made without properly

considering the accounts of the assessee or the details submitted before the lower authorities in this regard. The assessee has filed paper book before the Bench which contains the relevant details and supports the case of the assessee. However, it will be in fitness of things if these evidences and details are examined by the Assessing Officer who is the most appropriate authority under the Income Tax Act to do so. Accordingly, in the interest of justice, we restore the file to the office of the Assessing Officer with the direction to examine and adjudicate the issues afresh after giving proper opportunity to the assessee to present its case. Should the assessee fail to avail the opportunity provided by the Assessing Officer, the Assessing Officer shall be at liberty to adjudicate the issues *ex parte* qua the assessee in accordance with law.

6.0 In the final result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 27th January,

2020. Sd/-

sd/-

**(PRASHANTMAHARISHI)
ACCOUNTANT MEMBER**

**(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER**

Dated: 01/2020
BR

Copy forwarded to:

1. Appellant
 2. Respondent
 3. CIT
 4. CIT(Appeals)
 5. DR: ITAT
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ASSISTANT REGISTRAR
ITAT NEW DELHI