

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

I.T.A. No. 6783/Mum/2018 (Assessment Year 2013-14)

Rohit Deenbandhu Trivedi 61, Chakala Street Sheriff Devji Street Masjid Bunder Mumbai-400 003. PAN : AEAPT3047G (Appellant)	Vs.	ITO-17(3)(2) Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Shri Mehul Shah
Department by	Shri P. Bhoopathi
Date of Hearing	11.12.2019
Date of Pronouncement	04.02.2020

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 21.9.2018 and pertains to A.Y. 2013-14.

2. The issue in this case relates to disallowance of interest expenses of Rs. 10,24,688/- u/s. 57 of the I.T. Act.

3. The Assessing Officer has found that the assessee's income consists of business income, salary income from other sources. During the year under consideration, the assessee has shown interest income of Rs.7,45,201/- and against the said income, has claimed interest expenses of Rs 10,24,688/- u/s. 57 of the I.T. Act. The assessed was asked vide order sheet notings dt. 26/2/2016 to establish nexus between interest earned of Rs 7,45,801/- and interest claimed as expenses of Rs.10,24,688/- u/s.57 of the I.T. Act. Vide letter dated 18.01.2016, the assessee has replied to the above query that the interest paid is a genuine expenses and it could have also been shown as expenses in P & L A/c. and that this expense has to be allowed even if it is shown as expenses against income from other sources. The Submission of the

assessee was considered by the Assessing Officer. He found that the contention of the assessee is not acceptable as nowhere he has tried to establish nexus between interest earned and interest paid for earning the said interest received, with any documentary evidence. Therefore he disallowed the entire interest claimed of Rs. 10,24,688/- u/s. 57 of the I.T. Act and add it to the total income of the assessee.

4. Upon assessee's appeal learned CIT(A) referred to assessee's submission that the assessee has submitted all necessary papers before the Assessing Officer where the assessee has established loans which were taken in earlier years are for business purposes and all the nexus were shown from the date, loan was received and either use for his proprietary concern and or use for the purpose of giving to loan to other concern. That these expenses are claimed by the assessee in earlier year and the same Assessing Officer has given deduction of the same when the Assessing Officer has passed the order u/s. 143(3) of the Act. However, learned CIT(A) was not convinced. He rejected the assessee's claim and upheld the action of the Assessing Officer.

5. Against this order assessee is in appeal before us.

I have heard both the counsel and perused the records. Learned Counsel of the assessee reiterated the submission that the assessee has given necessary details before the Assessing Officer. In this regard he referred to the paper book page No. 20 for the submission made before the Assessing Officer in this regard.

6. I have gainfully referred to the submission of the assessee in the said paper book page No. 20 which is a letter dated 10.3.2016 addressed to the Assessing Officer :-

“VIJAY J SHAH & ASSOCIATES
CHARTERED ACCOUNTANTS
2-G, Navratna, 2^{mi} Floor,
Dr.D.D.Sathe Marg,
(Benham Hall Lane),
Girgaum, Mumbai - 400 004.”

Date: 10th March 2016

To,
Income tax officer 17(3)(2)
Mumbai Madam,

Re: ROHIT D TRIVEDI
PAN: AEAPT3047G

Ref: Reply for scrutiny assessment for A.Y 13-14

With reference to our personal visit to your office and discussion we had with you, wherein you had asked certain information which we are furnishing herewith.

On behalf of the above mentioned client, we have been instructed to inform you as under:

During the year assessee has paid loan interest of Rs.10.24.688/- and claimed from total income as per computation. For that we have to state that assessee has not given any loan from his proprietor concern so he has not earned any interest income out of it If you see Loans and Advances Dr. of personal Balance sheet except two items other items are receivable either rent or salary. Two items of advances are there namely. NZ Seasonalwear Private Limited and Rainproof Garments (Capital balance). The assessee has received interest from NZ seasonalwear Private Limited & in case of Rainproof garments he cannot earn interest as it is assessee own proprietor firm. These two advances are there "even in last year also. In fact during the concern year F.Y.I2-13 (A.Y.I3-14) bank overdraft has been paid during the year of Rs.20,25.678/-. So ideally interest paid should have been claimed from business income but since it has been paid out of his personal balance sheet it has been claimed from other sources. So whatever head assessee claim as deduction the fact remain the same that whether sum on which interest has been paid whether that has been used for the business or earned any income out of it. In our respectful submission we once reiterate the fact that assessee has meeting both the criteria. So interest paid should be allowed as genuine expenses either from Business Income or Income from other sources.

We shall be glad to furnish you any further details which you required on hearing from you.

Thanking You. Yours Truly,
For M/s Vijay J Shah & Associates Chartered Accountants
Authorised" Signatories”

7. From the above details it is clear that the assessee has not given full and exact details. There were no full details and hence, it cannot be said that the assessee had dislodged onus cast upon it for its claim. Furthermore, assessee's claim that similar expenditure were allowed in earlier year u/s. 143(3) cannot also act as estoppel as it is a settled law that there is no res judicata in tax proceedings. However, in my considered opinion interest of justice demands that the issue may be remitted to the file of the Assessing Officer. The Assessing Officer is directed to consider the assessee's response as mentioned above. The assessee is also directed to cooperate with the Assessing Officer by giving necessary requisite details. Learned Counsel of the assessee fairly agreed to the above.

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

Order has been pronounced in the Court on 4.2.2020.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 4/2/2020

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