

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

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT

ITA NO. 5538/MUM/2018 : **A.Y : 2012-13**

Ashwani Apparels and Properties vs. ITO, Ward 12(1)(2), Mumbai.
Private Limited, (Respondent)
12, Ram Janki, 356, Linking Road,
Khar (W), Mumbai 400 052.
PAN : AACCA0905B (Appellant)

Appellant by : **Ms. Rutuja N. Pawar**
Respondent by : **Shri Chaitanya Anjaria**

Date of Hearing : **20/02/2020**
Date of Pronouncement : **17/06/2020**

ORDER

This appeal by the assessee is directed against order of learned CIT(A) dated 30.06.2018 and pertains to assessment year 2012-13.

2. The issue raised relates to disallowance of rent paid amounting to Rs.30,000/- and disallowance of interest on borrowed money amounting to Rs.3,54,354/-.

3. Brief facts of the case are that assessee in the impugned assessment year claimed that it has changed its business from leasing of property to trading and manufacturing of ready-made garment. In this regard, assessee

also submitted that for this purpose there has been a change in the name of the company also. Assessee stated that it has just set up the business and has obtained premises on rent and has paid rent of Rs. 30,000/-. The disallowance by the Assessing Officer in this regard on the ground that no evidence for the commencement of the business has been shown was confirmed by learned CIT(A).

4. Against this order, assessee has filed appeal before ITAT. Upon hearing both the counsel and perusing the records, I find that the disallowance has been made without any cogent basis. There is no denial that the rent has been actually paid. The payment has not been treated as bogus. The assessee has duly changed its name to reflect that it is also now dealing in apparels. Hence, assessee has taken a space on rent to do the said business. There is no rule that assessee has to commence the entire dealing right from the word go. Accordingly, in my considered opinion, the disallowance is not sustainable. Accordingly, I set aside the orders of authorities below and hold that the expenditure in this regard deserves to be allowed.

5. Furthermore, assessee has also claimed that it has obtained property along with other co-owners and has claimed payment of municipal tax. This was disallowed by the Assessing Officer, the same was allowed by Commissioner of Income Tax on appeal. Regarding the same property, assessee had claimed that for the purchase of the property, co-owners have jointly taken loan from HDFC bank. Further, interest paid letter from the HDFC bank was produced. This letter was addressed to all the co-owners together. This was disallowed by the Assessing Officer on the ground that no specific

letter for assessee's share was mentioned therein. This was confirmed by the learned CIT(A).

6. Against the above order, assessee has filed appeal. Upon hearing both the counsel and perusing the records, I find that when the authorities below are allowing the municipal tax paid on the same property, there is no reason why the interest paid for the borrowed money should be disallowed. When the fact is not denied that property has been purchased on co-ownership basis, there is no reason as to why the proportionate interest should be disallowed. The assessee's name is duly reflected in the letter of the bank as a co-owner. In my considered opinion, the claim of interest should be allowed. I direct accordingly.

7. In the result, this appeal filed by the assessee stands allowed.

Order pronounced in court on 17th June, 2020 under Rule 34(4) of ITAT Rules.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai, Date : 17th June, 2020

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai