

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC-1" : DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
ITA.No.7050/Del./2019
Assessment Year 2016-2017

Shri Surender Kumar, WP-522, Phase-1, Wazirpur Village, North West Delhi. PIN – 110 052. PAN AASPK1609B	vs.	The Income Tax Officer, Ward – 34(3), New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri Nitin Gulati, Advocate.
For Revenue :	Shri R.K. Gupta, Sr. D.R.

Date of Hearing :	22.10.2020
Date of Pronouncement :	23.10.2020

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-12, New Delhi, Dated 28.06.2019, for the A.Y. 2016-2017, challenging the addition of Rs.8,80,853/- on account of interest expenses.

2. We have heard the Learned Representative of both the parties through video conferencing and perused the material available on record.

3. Briefly the facts of the case are that the assessee is an individual and filed return of income at Rs.14,68,930/- . The A.O. on going through the P & L A/c and balance-sheet noted that assessee claimed interest expenses of Rs.8,80,853/-. The assessee was asked to file details of interest expenses along with copy of the account and utilization of the loan. It was also observed assessee has shown interest free loan of Rs.10 lakhs given to Shri Rakesh Chandar and no business purpose have been established. The assessee was, therefore, notified that since no loan document, sanction letter along with purpose of loan have been established, therefore, loan fund has not been used wholly and exclusively for business purpose, therefore, show cause why the impugned amount be not added to the income of the assessee. The A.O. in the absence of details of loan, sanction letter etc., and disbursement amount made the impugned addition. The

assessee submitted before the Ld. CIT(A) that loan amount was wholly and exclusively used for the purpose of business and that interest expenses was claimed in earlier year which have been accepted by the authorities below. The Ld. CIT(A), however, dismissed the appeal of assessee.

4. After considering the rival submissions, we are of the view that the matter requires reconsideration at the level of the A.O. Learned Counsel for the Assessee referred to PB-8 which is details of the loan on which interest have been disallowed. By referring to such details, Learned Counsel for the Assessee submitted that these loans were of preceding assessment years and no loan have been taken in assessment year under appeal. Therefore, there is no question of disallowing any interest, particularly, when on the same loan no interest have been disallowed in preceding assessment years. Considering these facts, it is prima facie clear that loans on which disallowance of interest have been made pertain to preceding assessment years on which it appears that no interest have been disallowed in preceding assessment years. Since no factual finding have been given

by the authorities below on this plea of the assessee, therefore, matter requires reconsideration as if the loan pertain to earlier year, therefore, same interest could not be disallowed in assessment year under appeal. In view of the above, we set aside the Orders of the authorities below and restore the matter in issue to the file of A.O. with a direction to re-decide the above issue by verifying the facts whether loans on which interest have been disallowed pertain to preceding assessment years and if the same pertain to the preceding assessment years, no disallowance could be made against the assessee. A.O. shall give reasonable, sufficient opportunity of being heard to the assessee. Accordingly, appeal of the Assessee is allowed for statistical purposes.

5. In the result, appeal of the Assessee allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER
Delhi, Dated 23rd October, 2020
VBP/-

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-1' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.