

आयकर अपीलीय अधिकरण “एक-सदस्य मामला” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

माननीय श्री अमरजीत सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI AMARJIT SINGH, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.5742/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2013-14)

Vimesh N. Zaveri HUF 114, Sunflower Apartments 99, Cuffe Parade Mumbai - 400 005.	बनाम/ Vs.	ITO-17(3)(5) Mumbai -400 020.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAFHV-6406-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Kiran Mehta-Ld. AR
Revenue by	:	Shri Sanjay J. Sethi-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	22/12/2020
घोषणा की तारीख / Date of Pronouncement	:	22/12/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal is a recalled matter since the earlier order passed on 09/12/2019 has been recalled vide MA No.62/Mum/2010 order dated 29/10/2020 for limited purpose of adjudication of alternative ground that even if the interest disallowance was to be confirmed, the assessee could at the highest be assessed at income of Rs.85,775/-. After hearing

both the sides, our adjudication to the alternative ground would be as per succeeding paragraphs.

2. Upon perusal of assessee's computation of income, it is observed that the assessee has earned interest income of Rs.4,02,077/- and claimed interest expenses of Rs.31,32,720/- thereby reflected net loss of Rs.27,30,643/- under the head *income from other sources*. Out of interest expense of Rs.31,32,720/-, Ld. AO has disallowed interest expenses of Rs.28,16,418/- and allowed balance interest expense of Rs.3,16,302/-. The said disallowance has also been confirmed by the Tribunal in earlier order dated 09/12/2019.

3. However, while computing assessee's income, Ld. AO has added back the interest disallowance of Rs.28,16,418/- in short-term capital loss of Rs.9,78,160/- and arrived at taxable income of Rs.18,38,258/-. The same is not correct since short term capital loss of Rs.9,78,160/- was to be carried forward to next year whereas the income under the head *Income from Other Sources* should have been assessed at Rs.85,775/- (Rs.4,02,077/- Less Rs.3,16,302/-) as against Rs.,18,38,260/- as assessed by Ld. AO. Therefore, we direct Ld. AO to rectify the computations in terms of our above observations. This ground stand allowed.

4. The appeal stand partly allowed to the extent stated in this order.

Order pronounced on 22nd December, 2020

Sd/-

(Amarjit Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 22/12/2020
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**