

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'C' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी मंजूनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

**I.T.A. No.755/Chny/2019
(Assessment Years: 2012 - 2013)**

Smt. Mayavan Shanthi,
No.65, Rangar Sannathi Street,
Namakkal – 637 001
Tamil Nadu.

PAN : ACSPS 8564R

Vs. The Income Tax Officer,
Ward – 1,
No.138/3,
LMR Shopping Arcade,
Salem Road,
Namakkal – 637 001.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr. S. Sridhar, Advocate
: Mr. G. Johnson, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 08.02.2021

घोषणा की तारीख /Date of Pronouncement

: 09.02.2021

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

The appeal filed by the Assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), Salem in I.T.A. No.140/2017-18 dated 18.02.2019 pertaining to assessment year 2012 - 2013.

2. The brief facts of the case are that the Assessee had filed the return of income by admitting a total income of Rs.1,61,780/-. The Assessing Officer had completed the assessment order u/s.143(3) r.w.s. 263 of the Income Tax Act, 1961, dated 29.12.2017. In the assessment order, the Assessing Officer has noted as under:

“8.0. During the assessment proceedings, the Authorized Representative of the Assessee was asked about interest payment to Sundaram BNP Paripasu, he stated that the Assessee along with her husband Dr. R. Mayavan purchased the property in Namakkal Co-operative Colony on 22.10.2009 (Document No.3614 & 3615) in co-ownership with 50% share each for Rs.99,96,230/- raising loan from Sundaram PNP Paripasu for Rs.99,00,000/- by both the co-owners and the first name in the loan document is Dr. R. Mayavan and second name in the loan document is the Assessee. The Authorized Representative further stated that the Assessee has paid Rs.9,10,876/- towards interest as her share towards loan to her husband and claimed it as expenditure against the income from her property.

8.1. In the present case, on perusing the entries in the ledger of Smt. M. Shanthi, a sum of Rs.9,10,786/- is debited only by way of journal to Dr. R. Mayavan which implies that the Assessee has not actually paid the interest. As the Assessee has not paid the interest actually, as per the accounting principles, the interest should have been added to the loan amount outstanding. But on verification made in the balance sheet drawn for 31.03.2011 and 30.03.2012, it is found that the outstanding loan amount has been reduced to Rs.8,53,949/-. Furthermore, actual payment of interest to Sundaram PNP Paripasu for the assessment years 2011-12 and 2012-13 are Rs.10,40,244/- and Rs.13,10,488/- by the Assessee's husband Dr. R. Mayavan whereas the interest admitted by him from the Assessee were Rs.8,58,717/- and Rs.9,10,786/- respectively. It is clear that the major portion of the interest was paid by the Assessee, though only 50% was her share as per the books of accounts. Therefore, the entire

interest payment of Rs.9,10,786/- to Sundaram PNP Paripasu made by the Assessee to her husband Dr. R. Mayavan is not allowed to be deducted from 'other sources' as the Assessee has failed to satisfy the conditions stipulated under section 57(iii) of the Income Tax Act, 1961 and added to the assessed income."

3. On appeal, the learned Commissioner of Income Tax (Appeals) has confirmed the order of the Assessing Officer.

4. On being aggrieved, the Assessee carried the matter before the Tribunal. The Counsel for the Assessee has submitted that the Assessee has paid an amount of Rs.9,10,786/- towards interest as share towards the loan taken by her husband. Her husband has admitted an interest received from his wife in his return and submitted that the same may be allowed.

5. The learned Departmental Representative has relied upon the order of the Assessing Officer and the learned Commissioner of Income Tax (Appeals).

6. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

7. The Assessee and her husband had purchased a property bearing Document No.3614 & 3615 in co-ownership with 50% share each for Rs.99,96,230/-, raising a loan from Sundaram PNP Paripasu for Rs.99,00,000/-. The Assessee's husband has paid the entire interest to Sundaram PNP Paripasu along with the share of his wife also. Subsequently, the Assessee had paid an amount of Rs.9,10,786/- to her husband, so far as her share of interest is concerned. The Assessee's husband, in his return of income has admitted the interest received from his wife (the assessee). The Assessing Officer has not agreed to the explanation given by the Assessee and rejected the claim of the Assessee and made the addition. The learned Commissioner of Income Tax (Appeals) confirmed the addition made by the Assessing Officer. We find that the Assessee has paid the interest to an extent of her share to her husband and her husband in his return of income admitted the same.

8. Under the above facts and circumstances of the case, the Assessing Officer is not justified in disallowing the interest claim

made by the Assessee and that confirmed by the learned Commissioner of Income Tax (Appeals).

Thus, we reverse the order passed by the learned Commissioner of Income Tax (Appeals) and the appeal filed by the Assessee is allowed.

9. In the result, the appeal filed by the Assessee in I.T.A No.755 /Chny/2019 is allowed.

Order pronounced on 9th February, 2021 in Chennai.

Sd/-
(श्री जी मंजूनाथा)
(G. MANJUNATHA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(श्री वी दुर्गा राव)
(V. DURGA RAO)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 9th February, 2021
IA, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF