

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC-1' NEW DELHI**

**BEFORE SHRI R. K. PANDA ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 6965/DEL/2018 (A.Y 2010-11)
(THROUGH VIDEO CONFERENCING)**

Amarjeet Singh 23, Regal Building, Connaught Place, New Delhi AAGPS2209D (APPELLANT)	Vs	ACIT Circle-52(1) New Delhi (RESPONDENT)
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Appellant by	Sh. K. Sampath, Adv & Sh. V. Raja Kumar, Adv
Respondent by	Ms. Shivani Bansal, Sr. DR

Date of Hearing	08.03.2021
Date of Pronouncement	23.03.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against order dated 20.09.2018 passed by CIT(A)-18, New Delhi for assessment year 2010-11.

2. The grounds of appeal are as under:-

“ That on the facts and in the circumstances of the case and in law the Ld.CIT(A) erred in confirming the addition made by the Assessing Officer on account of interest paid on loan in a sum of Rs. 2,96,333/- under the head ‘Income from other sources’. The order being arbitrary, erroneous and unlawful must be quashed with directions for appropriate relief.”

3. The assessee had filed the Return of Income showing total income of Rs. 8,19,950/-. The case was selected for scrutiny and the assessment was finalized by making an addition of Rs. 2,96,333/- by disallowing interest u/s 57 of the Act. The assessee had filed an appeal before CIT (A) who dismissed the appeal and confirmed the addition made by the Assessing Officer. The assessee filed an appeal before the Tribunal and the Tribunal has set aside the matter to the file of the Assessing Officer to decide the issue afresh. The Assessing Officer after giving opportunity to the assessee and after considering the various documents filed before him, finalize the assessment u/s 254/143(3) of the Act vide his order dated 18.10.16. In the fresh assessment order, the Assessing Officer has observed that the assessee has not been able to prove the direct nexus between loan taken from Smt. Madhu Bhandari and the amount given by him to the firm SM & Sons and therefore, the deduction u/s 57 of the Act claimed by the assessee was not allowable. The Assessing Officer has also distinguished the decision of the Hon'ble Supreme Court in the case of CIT Vs Rajendra Prasad Moody in Para 6 of the order. The Assessing Officer has also observed from the bank statements that the loan amount received from Smt. Madhu Bhandari has not been directly provided by the assessee to the Firm SM& Sons, thereby, the direct linkage between the two transactions is not established. Moreover, the assessee has provided a sum of Rs. 10,00,000/- to the Firm which reflects in the capital account of the Firm which is a running account and from which no interest income has been earned by the assessee. In view of these facts, the Assessing Officer rejected the claims made by the assessee after examining the bank statements and other documents and has disallowed the interest amounting to Rs. 2,96,333/- u/s 57 of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the Assessing Officer made an addition on account of interest paid on loan of a sum of Rs. 2,96,333/- under the head income from other sources. In the Assessment Year 2012-13, in assessee's own case under similar circumstances, the Tribunal has allowed relief of interest expenditure. The facts in this present year are similar to that of Assessment Year 2011-12 and 2012-13. The CIT(A) ignored these factual aspects and dismissed the appeal.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. The assessee has claimed deduction of the expenditure in respect of 70 lakhs loan from Madhu Bhandari and Rs. 10 lacks which was an advance to M/s SM & Sons for earning income and balance to other parties for booking of space in respect of earning income. The assessee had earned interest income of Rs. 9,39,876/- in Assessment Year 2009-10 from M/s S M & Sons, besides this the Assessee also incurred expenses on rent that of Rs. 48,000/-, salary of Rs.1,20,000/- and profit of Rs. 4,53,795/-. The firm had paid tax on the profit. Interest of Rs. 43,04,029/- was also earned in Assessment Year 2014-15 from M/s S M & Sons and no interest was received during the year from M/s S M & Sons. Thus, for the claim made by the assessee, all the conditions were fully satisfied and all the details were produced before the Assessing Officer. From the perusal of records it can be seen that the assessee has incurred expenses which should have been taken into consideration by the Assessing Officer, but instead the Assessing Officer made an addition. The Tribunal in assessee's own case in identical circumstances has allowed the expenses towards the interest and thus, the appeal of the assessee in present year as well is allowed.

8. In result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on this 23rd Day of March, 2021

Sd/-

**(R. K. PANDA)
ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated : 23/03/2021

*R. Naheed **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI