

आयकर अपीलिय अधिकरण  
मुंबई पीठ "एस एम सी" , मुंबई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
आअसं. 3242/मुं/2019 (नि.व.2015-16)  
ITA NO.3242/MUM/2019 (A.Y.2015-16)

Hansa Liladhar Ganatra,  
17-B/2, Sion Society,  
Sion (West),  
Mumbai- 400 022  
PAN: **AAKPG5273B**

..... अपीलार्थी /Appellant

बनाम Vs.

ITO, Ward- 26(1)(5)  
Mumbai.

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Mr. Hiral Suresh Shah

प्रतिवादी द्वारा/Respondent by : Ms. Smita Verma

सुनवाई की तिथि/ Date of hearing : 05 /05/2021

घोषणा की तिथि/ Date of pronouncement : 05/05/2021

आदेश / ORDER

**PER VIKAS AWASTHY, J.M:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-38, Mumbai (in short 'the CIT(A)') dated 28/11/2018 for the assessment year 2015-16.

2. Shri Hiral Suresh Shah appeared on behalf of the assessee submitted at the outset that the only dispute in the present appeal is with regard to disallowance of interest expenditure Rs. 5,83,500/- by the Id. CIT(A). The Id. AR submitted that the assessee has furnished detailed submissions and documents before the CIT(A) to show interest paid to parties from whom the assessee has taken loan. The

assessee has also furnished documents to substantiate that the parties from whom the assessee had taken loan have reflected interest income in their respective return of income. The Id. CIT(A) without properly examining the details furnished by the assessee has made disallowance of interest Rs. 5,83,500/-.

3. On the other hand, Ms. Smita Verma representing the Department vehemently defended the impugned order and prayed for dismissing the appeal of assessee. The Id. DR submitted that the CIT(A) has granted relief to the assessee to the extent, assessee has furnished conclusive documentary evidence.

4. Both sides heard, orders of authorities below examined. During the period relevant to AY under appeal, the assessee has earned interest income, as well as has paid interest on the loans taken from various parties. The AO in assessment proceedings had disallowed interest expenditure of Rs. 30,37,346/-. In First Appellate Proceedings, the CIT(A) granted part relief to the assessee on the basis of documents furnished by the assessee and confirmed the addition only to the extent of Rs. 5,51,000/-. Now, the short contention of the assessee is that the assessee had furnished various documents to substantiate payment of interest. Purportedly, the assessee had also furnished copies of income tax returns of the parties from whom the assessee had taken loan. The respective parties have already disclosed interest income in their respective return of income.

5. I find that the ground raised by assessee in appeal requires verification of facts. Therefore, I deem it appropriate to restore this issue back to the file of assessee for verification of facts from the documents already placed on record by the AO. The AO is directed to examine the relevant documents and allow

reasonable opportunity of hearing to the assessee and thereafter pass the order, in accordance with law.

6. In the result, appeal by assessee is allowed for statistical purpose.

Order pronounced in the open court on **Wednesday**, the **5<sup>th</sup>** day of May, 2021.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: 05/05/2021

SK, PS

**प्रतिलिपि अग्रेषित**Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**