

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING]**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

ITA No. 7183/DEL/2018 [A.Y 2015-16]

Smt Kiran Suri
M-96, Ground Floor,
Greater Kailash - I,
New Delhi

Vs. The A.C.I.T
Circle - 63(1)
New Delhi

PAN: AOHPS 3541 R
(Applicant)

(Respondent)

Assessee By : Shri Rajiv Saxena, Adv
Ms. Sumangla Saxena, Adv
Shri Shyam Sundar, Adv

Department By : Shri Pranav Kumar, Sr. DR

Date of Hearing : 25.11.2021
Date of Pronouncement : 30.11.2021

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 20, New Delhi dated 27.09.2018 pertaining to Assessment Year 2015-16.

2. The assessee has raised the following grounds of appeal:

“1. The Id. CIT(A) has erred in law as well as on facts in disallowing the interest of Rs. 7,92,777/- by only giving the relief of Rs. 1,75,203/- from the disallowance originally made by the Assessing Officer of Rs. 9,67,980/- towards interest on loan taken for office purposes.

2. The Id. CIT(A) has erred in law as well as on facts in confirming the disallowance of Rs. 1,52,846/- @ 20% of the total expenses claimed amounting to Rs. 7,64,232/-.”

3. Briefly stated, the facts of the case are that the assessee is an individual and an Advocate by profession. During the course of scrutiny assessment proceedings, the Assessing Officer noticed that the assessee has debited interest on housing loan of Rs. 2,97,86,125/- to the tune of Rs. 9,67,980/- under the name of interest on purchase of office to the profit and loss account. The Assessing Officer further noted that in the computation of income, the assessee has claimed Rs. 2 lakhs of interest under house property u/s 24b of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'].

4. The assessee was asked to explain why the interest expenses of Rs. 9,67,980/- should not be disallowed on account of housing loan interest wrongly claimed as business expenses.

5. In its reply, the assessee explained that she, along with her husband, had purchased a property at Greater Kailash and such property was divided into two parts, namely, Ground floor and Mezzanine floor measuring 2250 sq. ft area solely used for assessee's office and first floor was used for residential purposes. It was explained that the assessee claimed interest paid only for the half-year amounting to Rs. 9,67,980 /- out of the total interest of Rs. 19,85,960/-. Balance of Rs.10,17,980/- was transferred to her capital account from which Rs.2 lakhs was claimed as deduction u/s 24 of the Act.

6. It was strongly contended that the loan was taken as housing loan because it was more convenient to avail and the interest rate was much lower than the normal business loans. Therefore, interest claimed by the assessee cannot be disallowed.

7. Submissions made by the assessee did not find any favour with the Assessing Officer who was of the opinion that since it was a housing loan, only amount of Rs. 2 lakhs is allowable as deduction and denied the claim of Rs. 9,67,980/- and made the addition.

8. The assessee carried the matter before the ld. CIT(A) but without any success.

9. Before us, the ld. counsel for the assessee reiterated what has been stated before the lower authorities.

10. Per contra, the ld. DR supported the findings of the Assessing Officer.

11. We have carefully considered the orders of the authorities below. There is no dispute that the assessee had taken loan from the bank from which it purchased house property. It is equally true that the loan was in

the nature of housing loan. There is no dispute that the ground floor and Mezzanine floor is used by the assessee for its professional activities.

12. We find that the Id. CIT(A) has restricted disallowance to Rs. 7,92,777/- on finding that the assessee could not give any details of expenditure incurred on basement and other floors of residence, though the Id. CIT(A) accepted the contention that she has taken housing loan but partly invested an amount towards office premises which was used for commercial purposes and the assessee was entitled for proportionate deduction on this count.

13. For want of details, the claim was restricted to Rs. 7,92,780/-. We are of the considered view that even before us also, the assessee could not produce any evidence.

14. However, in the interest of justice and fair play, we deem it fit to restore this issue to the file of the Assessing Officer. The assessee is directed to furnish necessary evidences regarding the use of portion of

the house for professional purposes. The assessee is further directed to furnish evidence in respect of expenditure incurred on basement and other floors of residence. The Assessing Officer is directed to decide the issue afresh after giving reasonable opportunity of being heard to the assessee. Ground No. 1 is allowed for statistical purposes.

15. Second grievance relates to disallowance of Rs. 1,52,846/- out of total expenses of Rs. 7,64,232/-.

16. During the course of assessment proceedings, the Assessing Officer noticed that the assessee has debited Rs. 6,64,232/- as interest expenses on purchase of car. When the assessee was asked why proportionate disallowance in the interest expenses should not be made on account of personal use of car, the assessee agreed for disallowance of 20% being Rs. 1,52,846/-.

17. Since the assessee has herself accepted the proportionate disallowance, we do not find any merit in this grievance of the assessee and the same is dismissed.

18. In the result the appeal of the assessee in ITA No. 7183/DEL/2018 is allowed in part for statistical purposes.

The order is pronounced in the open court on 30.11.2021.

Sd/-

**[AMIT SHUKLA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 30th November, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	