

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

**(Through Video Conferencing)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER**

**ITA No.131/DEL/2020  
[Assessment Year: 2015-16]**

M/s Shikhar Development Foundation, A-113, 3 <sup>rd</sup> Floor, Behind ICICI Bank Palam Extension Secotr-7, Dwarka, New Delhi-110077	ACIT, Circle-43(1), New Delhi
<b>PAN-AAGTS9404C</b>	
Assessee	Revenue

Assessee by	None
Revenue by	Sh. Om Prakash, Sr. DR

<b>Date of Hearing</b>	<b>01.12.2021</b>
<b>Date of Pronouncement</b>	<b>13.12.2021</b>

**ORDER**

This appeal filed by the assessee is directed against the ex-parte order dated 30.10.2019 of the learned CIT(A)-15, New Delhi, relating to Assessment Year 2015-16.

2. None appeared on behalf of the assessee at the time of hearing before us. No petition seeking adjournment has been filed. The notice issued by the Registry through RPAD was returned unserved by the postal authority with the remark "the assessee has left the premises". The assessee has also not

taken any steps to intimate the change of address, if any. Therefore, I deem it proper to decide the appeal on the basis of material available on record and after hearing the ld. DR.

3. Facts of the case, in brief, are that the assessee is a company and engaged in the business of micro finance. It filed its return of income on 21.09.2015 declaring loss of Rs.29,63,293/-. The Assessing Officer completed the assessment u/s 143(3) of the Act determining total income of Rs.28,04,870/-, wherein, he made addition of Rs.57,68,164/- by disallowing the interest expenditure claimed. In appeal, the Ld. CIT(A) dismissed the appeal filed by the assessee.

4. Aggrieved with such order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:-

*1 That the learned Commissioner of Income Tax(Appeals) has grossly erred both in law and on facts in sustaining an assessment under section 143(3)of the Act at Income of Rs.28,04,870/- as against returned Loss being filed at Rs. 57,68,164/-.*

*2 That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in sustaining an addition of Rs. 57,68,164/- on account of Interest paid on loans.*

*3 That in doing so, the learned CIT (A) has grossly erred in failing to appreciate that the fact that the assessee had borrowed the funds and paid interest on loans further, the learned AO &CIT(A) based their*

*decision purely on suspicion, surmises and conjectures, without carrying out any investigation/ verification and as such, the addition so made should be deleted.*

4 *That in doing so, the learned CIT (A) has grossly erred in failing to appreciate that the fact that the assessee had also earned the interest of Rs. 18,75,338/- in respect of interest paid on loans further, the learned AO &CIT(A) based their decision purely on suspicion, surmises and conjectures, without carrying out any investigation/ verification and as such, the addition so made should be deleted.*

5 *That having regard to the facts and circumstances of the case, the learned CIT(A) has erred in law and facts in confirming the additions made in the assessment order dated 24/11/2017 as the same additions are contrary to law and facts.*

6 *That in any case and in any view of the matter, the assessment framed under section 143(3) of the Act, is bad in law and against the facts and circumstances of the case.*

7 *That having regard to the facts and circumstances of the case, Learned CIT(A) has erred in law and on facts in confirming the action of learned AO in passing the impugned order.”*

5. I have heard the ld. DR and perused the record. I find the Ld. CIT(A) while upholding the disallowance of interest expenditure of Rs.57,68,164/- has given his finding as under:-

“4. *DECISION: The contention of the Appellant has been considered and the order of Assessing Officer has also been perused.*

4.1. *The brief facts of the case, as submitted by the AR are that the appellant Shikhar Development Foundation is a public charitable trust. Shikhar Development Foundation is promoter of M/s Shikhar Micro Finance Pvt Ltd. M/s SDF receives loans from banks and financial institutions and give them to the poor livelihood at some interest rate Shikhar Development Foundation Trust raised loans from various associations for the purpose of business and paid interest of Rs. 57,68,164/- on loans taken. All the loans were taken long*

year back. Although, during the assessment year, the assessee had not taken any loan, but the interest was paid in respect of amount borrowed for the purpose of business or profession carried out by the assessee during the year. As per para 4.1 of the order of the AO, it was seen that the loans were not used for the business purpose but were used for the purpose of investment in firm, which was not related to the business and therefore, the interest expense claimed was disallowed u/s 36(l)(iii) of the IT Act.

4.2. During the course of appellate proceedings, it is submitted through written submissions that the interest had been paid in respect of capital borrowed for the purpose of business or profession carried out by the assessee during the year. The investment made in earlier years was as per the business objective of the trust. It is specifically mentioned in the deed of the trust that assessee can make investment in the equity shares of companies having similar objective as that of this trust, specifically, microfinance, livelihood and all related development initiatives or projects focused on the development of the poorer section of the society. Therefore the interest expenditure incurred by the assessee is an allowable expenditure for business purpose of the assessee. It is further submitted by the AR that there is proximate nexus between the business of the assessee and that of the company in which investments were made in the form of shares. It may be true that the returns are not commensurate with the expected returns in the form of interest, but if and when, the shares are liquidated, the trust is going to make huge profits.

4.3. The contentions of the AR have been considered and the order of the AO has also been perused. From the careful perusal of the facts of the case as discussed by the AO in para 3 of his order, it is clear that the appellant had received loan from trustee, Mr. Rajesh Kumar Verma, for the purpose of growth of Micro Finance Loan portfolio, Similarly, loan from Ivan Kotska was taken for lending to poor women borrowers. Similarly, loan from Silvia Kotska was also taken for lending to poor women borrowers. The loan from Growing Opportunity Finance India Pvt Ltd was taken to support development activities. The loan from Nijjar Finance Pvt Ltd was taken to support livelihood and Micro Finance related activities. However, the appellant company diverted the funds for investment in Sikhar Micro Finance Pvt Ltd to buy its equity shares.

It has been held in the case of **CIT Vs Amritaben R. Shah (Bom) 238 ITR 777** that when the assessee indulged in Purchase of shares with a view to acquire controlling interest in a company, then the Interest on loan taken to

*purchase shares was not deductible u/s 36(l)(iii),*

*Therefore, considering the facts and circumstances of the case and the judicial position discussed above, I do not find any reason to interfere with the findings of the AO and the disallowance of interest expense of Rs, 57,68,164/- made by the AO is hereby **confirmed.**"*

6. I find the order of the order of the Ld. CIT(A) is a reasoned one who after considering the material on record and following the decision of the Hon'ble Bombay High Court in the case of CIT vs Amritaben R Shah (supra) has sustained the addition made by the Assessing Officer. I do not find any infirmity in his order. Accordingly, the same is upheld and the grounds raised by the assessee are dismissed.

7. In the result, the appeal of the assessee is dismissed.

Order was pronounced in the open court on 13<sup>th</sup> December, 2021.

**Sd/-**

**[R.K.PANDA]**  
**ACCOUNTANT MEMBER**

**Delhi;** Dated: 13/12/2021

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi