

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

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.3493/Del/2019

[Assessment Year : 2010-11]

Puneet Goyal, 212D, Pocket-A, Mayur Vihar, Phase-02, New Delhi-110091. PAN-AIMPG6504F	vs	ITO, Ward-70(4), New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Sanjiv Mahajan, Sr.DR	
Date of Hearing	28.02.2022	
Date of Pronouncement	09.03.2022	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2010-11 is directed against the order of Ld. CIT(A)-21, New Delhi dated 14.01.2019. The assessee has raised following grounds of appeal:-

1. *“That the Authorities below erred both in law and on the facts in disallowing and/or sustaining the alleged disallowance of Rs. 1,11,574/- on account of assessee's share of joint housing loan paid merely on the basis of miss-conception, wrong assumption that the entire payment against the joint housing loan (of which Shri Pankaj goyal the brother of the assessee was the first named a/c holder whose monthly cheques were given to the financial institution for repayment of the monthly installments and the assessee was only the second named a/c holder) when the assessee has paid Rs. 1,35,000/- to Shri Pankaj Goyal on a/c of*

his share of interest and his share of repayment of loan to the financial institution.

2. *That the Authorities below erred both in law and on the facts in disallowing and/or sustaining the alleged disallowance of Rs. 16,660/- u/s. 80 C of the Income-tax Act, 1961 on account of assessee's share of joint housing loan repayment merely on the basis of miss-conception, wrong assumption that the entire payment against the joint housing loan (of which Shri Pankaj goyal the brother of the assessee was the first named a/c holder whose monthly cheques were given to the financial institution for - repayment of the monthly installments and the assessee was only the second named a/c holder) when the assessee has paid Rs. 1,35,000/- to Shri Pankaj Goyal on a/c of his share of interest and his share of repayment of loan to the financial institution.*
3. *That the orders of the Authorities below are bad in law and on the facts of the case.*
4. *That the orders passed are erroneous, illegal and against the principles of natural justice and equity as well as the well settled laws.*
5. *That the Appellant craves leave to add, amend, alter, vary and/or withdraw any or all above grounds of Appeal.*
6. *That the Appellant may please be permitted to add more either before or at the time of hearing of appeal.”*

2. None appeared on behalf of the assessee at the time of hearing. It is seen that from the various dates of hearing, no one appeared on behalf of the assessee. The appeal was adjourned on the request of the assessee on 28.12.2020 on the basis of the application of the Ld. Counsel for the assessee. Further, on 03.02.2021 and 05.04.2021, the appeal was

adjourned. Thereafter, even no request for adjournment was made. Under these facts, the appeal was taken up for hearing in the absence of assessee.

FACTS OF THE CASE

3. Brief facts of the case are that the Assessing Officer ["AO"] was in possession of information regarding the assessee had made the investment in immovable property for a consideration of Rs.51,00,000/- in Ghaziabad. Thereafter, the AO re-opened the assessment u/s 147 of the Income Tax Act, 1961 ["the Act"]. The notice u/s 148 of the Act was issued on 31.03.2017 and served upon to the assessee. In response to the statutory notices, Ld.AR of the assessee attended the assessment proceedings from time to time. The Assessing Officer while framing the assessment, noticed that the assessee had claimed loss from house property of Rs.1,11,574/-. Further, the AO disallowed the claim of deduction u/s 80C of the Act.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A). However, before Ld.CIT(A), there was no representation on behalf of the assessee therefore, Ld. CIT(A) dismissed the appeal in the absence of the assessee.

5. Now, the assessee is in appeal before this Tribunal.

6. The only effective ground in this appeal is regarding disallowance of loss of Rs.1,11,574/- claimed on house property and disallowance of deduction u/s 80C of the Act. The contention of the assessee in the ground of appeal are that the authorities below have wrongly concluded that the entire housing loan paid by the brother of the assessee. It is contended that

the entire payment against the joint housing loan of which Shri Pankaj Goyal, the brother of the assessee was first named account holder whose monthly cheques were given to the financial institution for repayment of the monthly installments and it is stated that the assessee paid Rs.1,35,000/- to Shri Pankaj Goyal on account of share of interest and his share of repayment of loan to financial institution. Under these facts, the authorities below were not justified in disallowing the claim of the assessee.

7. On the contrary, Ld.Sr.DR has opposed these contentions and supported the orders of the authorities below.

8. I have heard Ld.Sr.DR and perused the material available on records and gone through the orders of the authorities below. It is seen that in para 5.13, Ld.CIT(A) has recorded the facts that it was stated by the assessee that he had transferred an amount of Rs.1,35,000/- to his brother onward payment of LIC HFL but there was no evidence to corroborate the same. Therefore, Ld.CIT(A) sustained the additions.

9. Looking to the facts of the present case, I find that the assessee was one of joint account holder and the claim of house property loss was disallowed on the basis that the brother of the assessee had paid entire liability of loan. It was stated by the assessee that his share related to the loan was paid to the brother of the assessee. No inquiry has been made from the brother of the assessee. Therefore, considering these facts, I deem it proper to set aside the order of Ld.CIT(A) on this issue to the file of Assessing Officer to decide afresh.

10. Ground No.2 raised by the assessee in this appeal is against the disallowance of the deduction u/s 80C of the Act.

11. Ld. Sr. DR relied upon the decision of the authorities below and submitted that the assessee failed to submit any evidence.

12. I have heard Ld. Sr. DR and perused the material available on records and gone through the orders of the authorities below. Since this ground is related to Ground No.1 wherein Ground No.1 has been restored to the file of the Assessing Officer, this issue is also restored to the AO for verifying the veracity of the claim of the assessee. Thus, Ground No.2 raised by the assessee is allowed for statistical purposes.

13. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 09th March, 2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI