

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' BENCH: CHENNAI**

श्री जी. मंजुनाथा, माननीय लेखा सदस्य एवं  
श्री अनिकेश बनर्जी, माननीय न्यायिक सदस्य के समक्ष  
**BEFORE SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.269/Chny/2020  
निर्धारण वर्ष /Assessment Year: 2015-16

Mr. Yanamandra Venkata-  
Subramanyam,  
YS Enclave, 12<sup>th</sup> Floor, 1<sup>st</sup> Block,  
No.134/A, Arcot Road,  
Saligramam, Chennai.  
[PAN: AASPS 4780 P]  
(अपीलार्थी/Appellant)

v. The Dy. Commissioner-  
of Income Tax,  
CC-II(4), Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.Santhana Gopalan, CA  
प्रत्यर्थी की ओर से /Respondent by : Mr.G. Johnson, Addl.CIT  
सुनवाई की तारीख/Date of Hearing : 09.03.2022  
घोषणा की तारीख /Date of Pronouncement : 16.03.2022

**आदेश / ORDER**

**PER G. MANJUNATHA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-14, Chennai, dated 26.11.2019 and pertains to assessment year 2015-16.

2. The brief facts of the case are that the assessee is an individual and Music Director by profession field his return of income for the assessment year 2015-16 on 28.09.2015 declaring total loss of Rs.17,58,031/- consisting of loss from business of Rs.5,41,147/- and short term capital loss of Rs.12,16,884/-. The case was taken up for scrutiny. During the

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course of assessment proceedings, the AO noticed that the assessee has taken various loans from Banks and Financial Institutions and has paid huge interest expenses. Therefore, called upon the assessee to file necessary details to justify the claim of interest. In response, the assessee submitted that he had availed various loans for the purpose of his profession and claimed interest payments as expenses incurred for the purpose of profession. The AO on the basis of details filed by the assessee noticed that the assessee has claimed interest paid on certain loans, which are in the name of housing loans and further certain loans, the purpose of loan is not forthcoming from the records. Therefore, disallowed the interest paid to various Banks and Financial Institutions amounting to Rs.58,04,952/- and added back to total income.

**3.** Being aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee submitted that the AO has disallowed interest paid on certain loans which are taken for the purpose of development of profession without appreciating the fact that those loans are necessitated for the development of the profession. The Ld.CIT(A) after considering the relevant submissions of the assessee and also taken a note on various facts, rejected the arguments of the assessee and sustained the additions made by the AO towards disallowance of interest paid on loans by holding that interest paid on loans taken for acquisition of any asset will have to be capitalized along with the cost of the asset. Since, the assessee has incurred interest expenses for loans

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taken for purchase of immovable property, hence, the same cannot be allowed as deduction. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

**4.** The Ld.AR for the assessee submitted that the Ld.CIT(A) erred in not appreciating the fact that the assessee has borrowed loans from India Bulls for the purpose of business, which is evident from the fact that purpose of loan has been specifically stated to be business needs. Similarly, the assessee has taken loan from Reliance Home Finance for the purpose of business needs. The Ld.AR further submitted that although loans taken from Central Bank of India and Kotak Mahindra Bank are for the purpose of purchase of properties, but the properties are used for the purpose of profession of the assessee and thus, the same is in the name of business expenditure and thus, needs to be allowed as deduction.

**5.** The Ld.DR, on the other hand, supporting the order of the Ld.CIT(A), submitted that the assessee has filed fresh evidences in the form of sanctioned letters from the Bank, which were not placed before the AO as well as the Ld.CIT(A). Therefore, the matter needs to be set aside to the file of the AO for further verification.

**6.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The facts borne out from the records indicated that the assessee is in the profession of Music Director, has availed various loans from Banks and Financial

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Institutions. The assessee claimed that loans are taken from Banks and Financial Institutions for the purpose of business needs, even though, some loans availed are in the nature of loan against property. The assessee further claimed that certain loans were taken for acquiring the property, but the properties were used for the purpose of profession and hence, interest paid on loans needs to be allowed as deduction. We have given our thoughtful consideration to the reasons given by the AO to disallow interest paid on certain loans in light of various evidences filed by the assessee and we find that the assessee has availed loan from India Bulls for the purpose of business needs. Therefore, the AO erred in treating loan availed from India Bulls as housing loan, to disallow interest paid on said loan. Similarly, the assessee has availed loan against property from Reliance Home Finance and the purpose of loan was financial needs for the business. The AO without appreciating the fact treated Reliance Home Finance loan as a housing loan and disallowed the interest. Likewise, the assessee has availed vehicle loan from Kotak Mahindra Bank. However, the AO has treated the loan taken from Kotak Mahindra Bank as personal. As regards, the loan availed from the Central Bank of India, although, two loans are housing loans, but the claim of the assessee was that those two properties are used for the business of the assessee and thus, interest paid on said loans needs to be allowed as deduction against professional income. We find that even though loan taken from India Bulls and Reliance Home Finance are against mortgage of property, but the purpose of loan was

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specifically stated to be for business needs. Therefore, interest paid on said loans needs to be allowed as deduction against professional income. Likewise, loan taken from Kotak Mahindra Bank for purchase of vehicle needs to be allowed as deduction, since the assessee is using the vehicle for the purpose of his business. In so far as loan taken from Central Bank of India and the Federal Bank, although, the assessee claims to have used two properties for the purpose of business, but facts with regard to the use of those properties for business was not forthcoming from the orders of the AO as well as the Ld.CIT(A). Further, the assessee has filed these evidences for the first time before the Tribunal. Therefore, we are of the considered view that the issue needs to be re-examined by the AO in light of various evidences filed by the assessee. Hence, we set aside the issue to the file of the AO and direct the AO to re-consider the issue in light of our findings given hereinabove.

**7.** In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 16<sup>th</sup> day of March, 2022, in Chennai.

**Sd/-**

(अनिकेश बनर्जी)

**(ANIKESH BANERJEE)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 16<sup>th</sup> March, 2022.

**TLN**

**Sd/-**

(जी. मंजूनाथा)

**(G. MANJUNATHA)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF