

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 1191/Mum/2020
(A.Y: 2013-14)

Chirag Pramod Shah 101-A, Poonam Chambers, B Wing Dr. AB Raod, Worli Mumbai – 400018	Vs.	ITO, Ward – 17(1)(3) Room No. 110, 1 st Floor, Kautilya Bhavan, C-41 to C-43, G Block Bandra Kurla Complex, Bandra(E) Mumbai-400051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AODPS1793K		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Shri Rajesh Kumar Yadav.DR

Date of Hearing	22.03.2022
Date of Pronouncement	25.03.2022

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Appeals)-55, Mumbai passed U/sec143(3) and 250 of the Act. The assessee has raised the following grounds of appeal:

The Commissioner of Income Tax(Appeals) - 55, Mumbai

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(hereinafter referred to as the CIT(A)) has erred in confirming the Assessment Order passed by the Income Tax Officer Ward 17(1)(3), Mumbai (hereinafter referred to as the ITO) and confirming the disallowance made for the appellants claim of deduction U/s. 57 of Rs.21,36,848/- for Interest paid to Ms. Vaishali Shah Rs. 12,69,095/- and to Ms. Jyoti P Shah Rs. 867,753/- by stating that the assessee did not incur the expenditure of Interest for earning interest of Rs. 33,31,986/-. Your appellant submits that they have submitted the bank statements; ledgers accounts, confirmations and other records during the course of the assessment whereby the nexus of the interest paid and interest received has been explained. Further the parties to which interest had been paid have offered the same to tax in their return of income and paid the tax due on the

Your appellant submits and prays that the deduction U/s. 57 Interest paid on borrowed funds Rs. 21,36,848/- be allowed and the ITO be directed to allow the appellants claim of deduction U/s. 57 for Rs. 21,36,848 and cancel the demand.

Your appellants crave leave to amend, to alter or to add to any of the above referred Grounds of Appeal.

2. The brief facts of the case are that the assessee is engaged in the business and filed the return of income for the A.Y 2013-14 on 24.03.2014 disclosing a total income of Rs.11,12,620/- and the return of income was processed u/s 143(1) of the Act. Subsequently, the case was selected for scrutiny and notice u/s 143(2) and 142(1) of the Act are issued. In

compliance the Ld. AR of the assessee appeared from time to time and furnished the details and the additional information as called for. On perusal of the financial statements, the Assessing officer (A.O) find that the assessee has disclosed under the head income from other sources- savings bank interest and interest received and against the gross interest received, the assessee has claimed the interest paid to two persons and the net interest income was offered to tax. The A.O has called for confirmations of the lenders/ loan creditors to whom the interest was paid. Further, the A.O. was not satisfied with the explanations and dealt on the provisions of sec. 57(1) of the Act and relied on the judicial decisions and computed the interest component observing that the assessee has not established the dominant purpose that the interest is paid for earning income by the assessee offered under income from other sources and disallowed the claim of interest paid of Rs.21,36,848/-and assessed the total income of Rs.32,49,470/- and passed the order u/s 143(3) of the Act.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal and observed that the hearing notice was sent and none appeared and decided ex-parte confirming the action of the A.O and dismissed the assessee's appeal.

4. We have heard the Ld.DR submissions and perused the material on record as non appeared on behalf of the assessee. Prima-facie, the CIT(A) has passed the ex-parte order considering the fact that there is no appearance by the assessee in spite of providing adequate opportunity of hearing. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. We on perusal of the CIT(A) found that the Ld.CIT(A) has issued the notice of hearing referred at page 1 of the order, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not inclined to prosecute the appeal.

5. We find that, the assessee has raised grounds of appeal challenging the additions by the A.O. and

there could be various reasons for non appearance which cannot be overruled. We considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case along with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of appeal and allow the grounds of appeal of the assessee statistical purpose.

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

Order pronounced in the open court on 25.03.2022.

Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 25.03.2022

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai