

आयकर अपीलिय अधिकरण
मुंबई पीठ "एस.एम.सी" मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 1581/मुं/2019 (नि. व. 2014-15)
ITA No. 1581/MUM/2019 (A.Y.2014-15)

Ankur Condiominium,
CHS No. 1406/G/9A,
Link Road, Opp. Hypercity Mall,
Goregaon (West),
Mumbai-400062.

PAN: AADAA 0152 H

/Appellant

..... अपीलार्थी

बनाम Vs.

ACIT, CPC,
Post Bag No.2,
Electronic City Post Office,
Bangalore, Karnataka-560100.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Hitesh Shah, CA
प्रतिवादी द्वारा/Respondent by : Sh. B.K. Bagchi, DR
सुनवाई की तिथि/ Date of hearing : 04/02/2022
घोषणा की तिथि/ Date of pronouncement : 02/05/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-42, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 31.12.2018 for Assessment Year (AY) 2014-15.

2. Sh. Hitesh Shah appearing on behalf of the assessee submitted that the short issue in the present appeal is with respect to disallowance of interest income Rs. 1,88,580/-. The assessee filed its return of income in the status of Association of Persons (AOP). The return of the assessee was processed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the Centralized Processing Centre (in short CPC), Bangalore and intimation/order dated 01.01.2016 was sent to the assessee. The CPC, Bangalore while processing return disallowed interest income declared by the assessee under the head "Income from Other Sources". Against intimation under section 143(1) of the Act, the assessee filed appeal before the CIT(A). The CIT(A) rejected assessee's contention on the ground that the assessee has not furnished any evidence to claim deduction on principle of mutuality in the return of income. The Id. Authorized Representative (AR) submitted that the CIT(A) has erred in observing that the assessee is claiming deduction on principle of mutuality. Nowhere the assessee has claimed deduction in respect of interest income on principle of mutuality. The Id. AR pointed that a perusal of Income and Expenditure as on 31/3/2014 (at page no.4 of the Paper Book) would show that the assessee has negative income of Rs.2,30,670/-. The assessee had filed return of income for the impugned AY declaring loss. The case of the assessee is that the interest income declared by the assessee has been wrongly disallowed. There is no question of claiming interest as deduction on principle of mutuality.

3. Per contra, Sh. B.K. Bagchi representing the Department supported the order of CIT(A) and prayed for dismissing appeal of the assessee.

4. Both sides heard, orders of the authorities below examined. The solitary issue raised in appeal by the assessee is against disallowance of interest

income Rs.1,88,580/-. A perusal of return of income for the AY 2014-15 at page no. 9 to 35 of the Paper Book would show that the assessee has declared loss of Rs.2,30,670/-. At the same time the assessee in the column - Schedule of Alternate Minimum Tax u/s. 115JC has declared Rs.1,88,580/- (Interest Income). The assessee before the CIT(A) has made claim of exemption on the principle of mutuality. This fact is evident from the grounds and written submissions/statement of facts filed by the assessee before the CIT(A). The assessee has not been able to make out a case on mutuality before the First Appellate Authority. Therefore, the argument of the Id. AR of the assessee that no claim was made on principle of mutuality is contrary to the facts on record. We find no merit in the appeal, hence dismissed.

Order pronounced in the open court on **Monday**, the **02nd** day of May, 2022.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated: 02/05/2022

S.K., Sr. PS

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि. , मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

ITAT, Mumbai