

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

**BEFORE SH. N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. KUL BHARAT, JUDICIAL MEMBER**

ITA No.5361/Del/2017
Assessment Year: 2005-06

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| Jyoti Metal & Allied Industries (P) Ltd., New Delhi PAN No.AABCJ3790J | Vs | ITO Ward – 13 (4) New Delhi |
| (APPELLANT) | | (RESPONDENT) |

| | |
|-------------------|----------------------------|
| Appellant | None |
| Respondent | Sh. Abhishek Kumar, SR. DR |

| | |
|------------------------|------------|
| Date of hearing: | 21/11/2022 |
| Date of Pronouncement: | 21/11/2022 |

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-5, Delhi dated 29.06.2017 pertaining to A.Y.2005-06.

2. The grievance of the assessee read as under:-

1. *That on facts and in law the orders passed by the A.O. and appeal dismissed **by the** Commissioner of Income Tax (Appeals) (hereinafter referred to as "CIT(A)") are **bad** in law and void ab-*

initio.

2. *That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in confirming disallowance of claim of deductions of Rs. 4,63,367/- representing the interest paid on borrowed capital utilized for construction of house property and eligible for deduction under section 24(1)(vi) of the Act.*

2.1 *That the finding of the learned Commissioner of Income Tax (Appeals) that the liability incurred and settled by the appellant on purchase of material for construction of house property is not genuine. It is misconceived, misplaced and contrary to the facts and statutory provisions of law.*

That the Ld. CIT (A) has failed to appreciate that Mr. Narendra Bhatia Prop. Bhatia Constructions. Mrs. Komal Bhatia Prop. Komal Interiors & Ms. Renu Dang Prop. Natasha Furnishers, have already filed their confirmation. Copy of ITR return etc. and all the bills are also on record. The order of CIT (A) is misconceived, misplaced and contrary to facts.

2.2 *That the leaned Commissioner of Income Tax (Appeals) has failed to appreciate that once the appellant had provided for interest on the sums borrowed by way of purchase of raw material, it is denominated that there was a relationship of the borrower and lender between the parties who had supplied raw material and the appellant and as such, interest payable on such borrowed capital was eligible for claim of deduction under section 24(1)(vi) of the Act.*

4. *That the learned Commissioner of Income Tax (Appeals) has erred both in law and on facts in levying interest under section 234B of the Act which is not leviable on the facts of the instant case.*

It is therefore, prayed that the disallowances made and confirmed in the appeal may kindly be deleted and appeal of the appellant company be allowed.

5. The Appellant prays for leave to add, alter, amend or withdraw from any of the grounds of appeal at or before the time of hearing.

3. None appeared on behalf of the assessee inspite of several notices, therefore, we decided to proceed exparte. The DR was heard at length. Case record carefully perused.

4. Briefly stated the facts of the case are that during the year the assessee has not carried any business activity and in its return of income the income has been shown as rent from house property from which statutory deduction and municipal taxes have been claimed as expenses and in the original assessment proceedings the AO disallowed certain expenses which disallowance was challenged before the CIT(A) who allowed part relief to the assessee. The assessee challenged the order of the CIT(A) before this Tribunal and this Tribunal vide order dated 31.10.2014 in ITA 1824 and 3473/Del/2010 has confirmed the order of the CIT(A). However, as regard the disallowance of interest expenses of Rs.463367/- the matter was restored to the files of the AO to be decided afresh.

5. Pursuant to the directions of the Tribunal fresh notices were issued by the AO asking the assessee to furnish necessary evidences to payment of interest. Simultaneously notices were also issued to the parties to whom interest has been paid but such notices remained un-complied.

6. The AO further found that even from the bank statement payment of interest is not verifiable as the name of the persons to whom payments have been made is not mentioned in the bank statement. The AO accordingly made the addition of Rs.463367/-

7. The Additions were challenged before the CIT(A) but before the CIT(A) also the assessee could not furnish any evidence in support of its claim of expenditure and the CIT(A) was left with no choice but to confirm the addition.

8. Before us also the assessee is not responding from the first date of hearing which was 04.02.2020.

9. After giving a thoughtful consideration to the orders of the authorities below we are of the considered view that the assessee had no evidence whatsoever in support of his claim of impugned expenditure, therefore, we decline to interfere with the findings of the CIT(A) the appeal filed by the assessee is dismissed.

10. Decision announced in the open court on 21.11.2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- .11.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI