

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
Ms. PADMAVATHY S, ACCOUNTANT MEMBER

ITA No.538/Bang/2022
Assessment year : 2018-19

Rajgopal Shankarlal Gilada, C/o. Gopal Cement Spun Pipe Works, Sedam Road, Kalaburagi – 585 105. <b>PAN: ACUPG 8116H</b>	Vs.	The Deputy Commissioner of Income Tax, Circle 11(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Sheetal Borkar, Advocate
Respondent by	:	Shri K. Sankar Ganesh, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	21.12.2022
Date of Pronouncement	:	02.01.2023

**ORDER**

*Per Padmavathy S., Accountant Member*

This appeal is against the order of the CIT(Appeals), National Faceless Assessment Centre, Delhi [NFAC], dated 2.6.2022 for the assessment year 2018-19.

2. The assessee is a director in Gilada Finance Ltd. and Krishna Valley Power Ltd. and he is also partner in various partnership firms. During the AY 2018-19, the assessee filed the return of income on

31.8.2018 declaring an income of Rs.68,99,140. The assessee also filed revised return on 27.3.2019 showing an income of Rs.58,19,148. This revised return was further revised on 30.3.2019. The case was selected for scrutiny under CASS and accordingly notice u/s. 143(2) was duly served on the assessee. The AO called on the assessee to furnish the details of interest claimed as a deduction u/s. 57 for an amount of Rs.11,11,563. The assessee furnished the details pertaining to the same as given below and also made the following submissions:-

Date Instalment	Amount Rs.	Principal Amount Rs	Interest Amount Rs.
05.02.2018	8,37,479/-	3,25,101.53/-	5,12,377.47/-
05.03.2018	10,85,598/-	4,86,412.16/-	5,99,185.84/-
		Total	11,11,563/-

"Note on Interest income in the hands of M/s Whitefiled Refractories Pvt Ltd and claim of interest expense in individual return of Income

The company M/s Whitefiled Refractories Pvt Ltd has duly charged interest on funds transferred to the account of M/s Rajvaibhav Enterprises Pvt Ltd. The company M/s Whitefiled Refractories Pvt Ltd has shown an interest income of Rs.13,12,609/- from M/s Rajvaibhav Enterprises Pvt Ltd. which has already been offered to income tax in the hands of Whitefiled Refractories Pvt Ltd. I am a director in both these companies and this loan was obtained only for the purpose of business. As the interest income has already been offered to income tax in the hands of M/s Whitefiled Refractories Pvt Ltd where the interest income has suffered income tax in the hands of the company, the same was not again considered in my individual return of income under the head income from other sources. I have claimed interest expense of Rs.11,11,563/- in my individual return of income, as the same was not claimed as a deduction in the hands of M/s

Whitefiled Refractories Pvt Ltd where the interest income has been offered. The claim of interest expense may kindly be allowed as the interest income has already been offered to tax in the hands of M/s Whitefiled Refractories Pvt Ltd for the year under consideration."

3. However, the AO disallowed the interest on the ground that the assessee has not earned any income on the loans against which the interest is claimed u/s. 57. Before the CIT(A), the assessee submitted that the AO has considered the first revised return filed on 27.3.2019 but failed to consider the 2<sup>nd</sup> revised return filed on 30.3.2019. Accordingly, the assessee prayed before the CIT(A) that the correct return be considered for appellate proceedings. However, the CIT(A) rejected the submissions of the assessee by stating that the assessee has not submitted the omissions or wrong statement discovered by him in the first revised return which necessitated the filing of second revised return and therefore it will not be justified to give relief to the assessee on this ground.

4. On merits, the CIT(A) held that the assessee failed to prove any earnings in his hands against the interest expenses of Rs.11,11.563 and therefore upheld the disallowance made by the AO.

5. We heard the rival submissions and perused the material on record. Both the parties agreed to the fact that the AO has completed the assessment based on the revised return of income filed on 27.3.2019 without considering the fact that the assessee filed one more revised return on 30.3.2019. The CIT(Appeals) also did not consider the second revised return filed by the assessee on the ground that

reasons for filing the second return was not submitted by the assessee. It is thus clear that the entire assessment/appellate proceedings have not considered the second revised return filed on 30.3.2019, which is not correct. We therefore see it fit to remit the issues back to the AO to consider the revised return filed on 30.3.2019 for a de novo verification, after giving a reasonable opportunity of being heard to the assessee.

6. The appeal is allowed for statistical purposes.

Pronounced in the open court on this 02<sup>nd</sup> day of January, 2023.

Sd/-

( N V VASUDEVAN )  
VICE PRESIDENT

Sd/-

( PADMAVATHY S )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 02<sup>nd</sup> January, 2023.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.