

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT  
(Conducted Through Virtual Court)

**Before: Smt. Annapurna Gupta, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 137/Rjt/2020  
Assessment Year: 2016-17**

Shri Piyush Vinodrai Parekh, Satyam, 6/16 Prahlad Plot, Palace Road, Rajkot  PAN No: ACGPP7862F (Appellant)	Vs	The DCIT, (International Taxation), Rajkot  (Respondent)
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**Assessee Represented: None**  
**Revenue Represented: Shri B.D. Gupta, Sr.D.R.**

Date of hearing : 14-03-2023  
Date of pronouncement : 22-03-2023

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Assessee against the Appellate order dated 11.08.2020 passed by the Commissioner of Income Tax (Appeals)-13, Ahmedabad, arising out of the Assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2016-17.

2. The brief fact of the case is that the assessee is an individual and Non-Resident Indian. For the Assessment Year 2016-17, the assessee filed his Return of Income claiming a loss of Rs.2,90,621/-

2.1 On verification of the computation of Income, the Assessing Officer found that the assessee has claimed interest expenses of Rs. 11,45,971/- under "Income from Other Sources" on account of interest paid to SBI loan. However the assessee has not shown any income from the said property. The assessee was requested to show cause as to why the said interest expenses of Rs.11,45,971/- should not be disallowed u/s. 57 of the Act.

2.2. The assessee replied vide email dated 29.12.2018 that he is a Non-Resident and had taken loan for self-occupied property of flats where he was staying and doing professional work occasionally, whenever he come down to India and earning income which was declared in the Income Tax Returns. Hence, the claim of deduction of interest and other charges paid to banker is allowable u/s. 57 of the Act. The Assessing Officer held that the above explanation is not acceptable since the assessee has not shown any income from the property, but earned professional income vide income from professional work. Therefore the interest expenses of Rs.11,45,971/- is not allowable and therefore disallowed u/s. 57 of the Act. Thus the Assessing Officer determined the income of the assessee at Rs. 8,55,350/- as against the returned loss of Rs. 2,90,621/-.

3. Aggrieved against the same, the assessee filed an appeal before Ld. CIT(A). During the appellate proceedings, the assessee submitted that he purchased a flat which was used for the business purpose and the income earned was shown in the return, however it was not necessary to show the income from the said property for allowance of such expenses and that the question of disallowance u/s. 57 of the Act does not arise and relied upon decision of the ITAT Ahmedabad in the case of Kaushikhai Nandubhai Patel HUF vs. ACIT (ITA No. 3797/Ahd/2008) and the decision of the Hon'ble Gujarat High Court in the case of Virmati Ramkrishna vs. CIT 131 ITR 659. The Ld. CIT(A) confirmed the addition of Rs. 11,45,971/- as follows:

*5.2 From the attachments to the appellant submissions, it is seen that the appellant has dividend income (exempt from tax) of Rs.10,980/-, Interest from saving bank account of Rs.4,562/-, Income from other sources of Rs.8,55,350/- and has claimed deduction of interest paid to SBI loan account of Rs.11,15,064/-, SBI loan processing charges of Rs.27,500/- and bank charges of Rs.3,407/- and thus loss of Rs.2,86,059/-. However in the written submission the appellant admitted to have purchased, flat from which he claimed to have carrying out some professional activities whenever he came to India. During the assessment proceedings the appellant did not furnish the nature of his profession and proof use of the flat for the profession. He did not claim any income from the flat and such other properties. The appellant could not establish as to how the claimed income from profession as claimed was eligible to be treated as income from other sources. Similarly the written submissions made during the appeal proceedings do not make out as to how the professional income of Rs.8,55,350/- was "income from other sources" and how the loan taken from the bank was utilized exclusively for the purpose of earning said income. Both for the purpose of allowability of interest expenses either u/s.57 of the Act or u/s.37 of the Act, the necessary condition under the Act is that the expenditure (not being in the nature of capital expenditure and not being personal expenditure) must be laid out or expended wholly and exclusively for the purpose of making or earning such income. Thus in absence of evidence from the assessee the AO was justified in disallowing the expenditure claimed under the head "income from other sources". During the appellate proceedings it transpired that the loan from the bank was taken for investments in real estate properties and those properties were not sold out yet and that the appellant should have capitalized the loan related expenses as cost of properties acquired. Further the claim of the appellant that the income of Rs.8,55,250/- was from "other sources is self-contradictory because he himself admits it to be income from profession that he undertakes when he comes to India. It is also not established that the loan related expenses are related to the purchase of the residential flat from where the claim of carrying out profession has been*

*made and to the professional income claimed. Thus there is no ground on which the bank loan related expenses including the interest can be allowed a/ 157 of the Act and for that matter even u/s.27 of the hot*

*5.3 In the facts & circumstances, I do not find any basis to interfere with the assessment order made and the addition of Rs.11,45,971/- is confirmed. The rated grounds I and II are dismissed.*

4. Aggrieved against the same, the assessee is in appeal before us raising the following Grounds of Appeal:

*1. The learned Commissioner of Income Tax (Appeals)-13, Ahmedabad erred in upholding the validity of order passed u/s 143(3) of the Act whereby wrongly assessed the total income of Rs.8,55,350/- as against the returned income(Loss) of (-) Rs.2,90,621/- is unwarranted, unjustified and bad in law.*

*2. The learned Commissioner of Income Tax (Appeals)-13, Ahmedabad erred in upholding disallowing the Interest expense which is used for the business purpose amounting to Rs. 11,45,971/- is unwarranted, unjustified and bad in law.*

*3. The learned Commissioner of Income Tax (Appeals)-13, Ahmedabad erred in upholding the initiating the penalty proceedings u/s. 271(1)(c) of the IT Act is unwarranted, unjustified and bad in law.*

*4. The learned Commissioner of Income Tax (Appeals)-13, Ahmedabad erred in upholding the Charging the Interest u/s.234A/B/C/D of the I.T. Act is unwarranted, unjustified and bad in law.*

4.1. Today is the 7<sup>th</sup> time of hearing of this appeal, none appeared on behalf of the assessee. Even in all the previous hearings, in spite of service of notices to the assessee, this clearly shows that the assessee is not interested in pursuing the appeal with proper materials. Therefore with the assistance of Ld. D.R., we are proceeding with the adjudication of the appeal.

4.2. The Ld. Sr. D.R. Mr. B.D. Gupta submitted that the assessee has not made out a case by proving the income generated from other sources. Therefore the interest expenses of Rs.11,45,971/- claimed as deduction is clearly disallowed by the Assessing Officer which has been confirmed by ld. CIT(A). In the absence of any

further details by the assessee before the Lower Authorities, the concurrent findings made by the Lower Authorities does not require any interference. The Ld. D.R. further submitted that the grounds raised by the assessee are without any material evidences, therefore the appeal is liable to be dismissed.

5. We have given our thoughtful consideration and perused the materials available on record. Before us except the Grounds of Appeal, no material has been placed on record. However the findings of the Ld. CIT(A), the assessee admitted to have purchased a flat from which he claimed to have carrying out some professional activities whenever he came to India. However the assessee has not furnished his nature of profession and proof of use of the flat for the said profession. The assessee could not establish how the professional income was eligible to treat as "Income from Other Sources". During the appellate proceedings also, the assessee could not demonstrate as to how the professional income of Rs.8,55,350/- was "Income from Other Sources" and how the loan taken from the bank was utilized exclusively for the purpose of earning said income. Thus the assessee has not proved allowability of interest expenses either u/s. 57 or u/s. 37 of the Act. In the absence of evidence from the assessee, the disallowance made by the Assessing officer does not require any interference. Even before us, no materials placed by the assessee, neither written submission nor Paper Book filed before us. Further the assessee has not given Power of Attorney to any Authorized Representative to appear for the above case. In the absence of same, we have no hesitation in

confirming the order passed by the Lower Authorities. Thus the grounds raised by the assessee are devoid of merits and the same is hereby dismissed.

6. In the result, the appeal filed by the Assessee is hereby dismissed.

Order pronounced in the open court on 22-03-2023

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER True Copy**  
**Ahmedabad : Dated 22/03/2023**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
राजकोट