

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC '  
BENCH MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.3223/Mum/2022  
(Assessment Year :2015-16)**

M/s. STYL Rite Optical Industries Pattani House 425, Kalbadevi Road Kalbadevi, Mumbai-400 002	Vs.	Asst. Commissioner of Income Tax, Circle 18(3) 6 <sup>th</sup> Floor, Earnest House Nariman Point Mumbai - 400 021
<b>PAN/GIR No.AACFS3919G</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Shashank Mehta
Revenue by	Shri Minal Kamble
<b>Date of Hearing</b>	<b>01/02/2023</b>
<b>Date of Pronouncement</b>	<b>31/03/2023</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 04/07/2022 passed by NFAC, Delhi for the quantum of assessment passed u/s. 143(3) for the A.Y.2015-16.

2. The only issue raised is with regard to addition of notional interest amounting to Rs.10,20,000/- being 12% of interest deposits for acquiring the premises on rent. Before us, the Id. Counsel had submitted that this Tribunal in A.Y.2013-14 had set aside this issue to the AO for verification.

3. The facts in brief are that the assessee has acquired business premises of 14,000 sq.ft area on a yearly rent of Rs.24,56,640/- from M/s. Patni Ventures Pvt. Ltd. For acquiring the space, assessee has given interest free security deposits of Rs.85,00,000/-. It has been noted in the assessment order that M/s. Patni Ventures Pvt. Ltd, is the sister concern of assessee firm within the meaning of Section 40A (2)(b) of the Act. The AO noted that assessee was having substantial amount of loan funds on which it has incurred total interest expenditure of Rs. 1,00,41,992/- and on the other hand, assessee advanced security deposit of Rs.85,00,000 for sister concern without charging any interest. In response to show-cause notice, assessee submitted detailed reply and one of the key issues raised was that, as per the rent agreement with M/s. Patni Ventures Pvt. Ltd. rent payable was Rs.2,00,000/- per month which was much lower than the market rates. The deposit was given from the capital account of the partners and reduced by the partners in the previous years and not from any loan on which interest has been paid. Therefore, there was no direct correlation between loan taken and deposit given. Alternatively it was stated that if notional interest of 9% is added and the deposit given, then rent paid would come to Rs.2,63,750/- which

would be Rs.18.90 per sq.ft as compared to @ Rs.14.25/- per sq.ft. However, the Assessing Officer rejected the assessee's contention and accordingly applied notional rent of 12% on the security deposit of Rs. 85,00,000/- and added Rs.10,20,000/-.

3.1 The Id. CIT A) has confirmed the action of the AO. We find that this Tribunal in assessee's own case in ITA No.1925/Mum/2022 dated 08/11/2022 for A.Y.2013-14 had made the following observations:-

*6. So far as question of addition of Rs.10,20,000/- on account of notional interest being 12% of the interest on security deposit made by the Assessing Officer is concerned, the assessee, though claimed that it was having own surplus interest free funds which were utilized for depositing the security of Rs.85 lakhs with M/s Patni Ventures Pvt Ltd. but strangely enough, assessee has not brought on record any evidence to prove this fact before Ld.Assessing Officer as well as Ld.CIT(A).*

*7. However, during the course of argument, Ld.AR for the assessee filed balance-sheet and P&L Account showing surplus interest free funds at its disposal to meet with the expenses of depositing Rs.85 lakhs with M/s Patni Ventures Ltd, which have never been verified by the Assessing Officer. So the issue is required to be sent back to the Assessing Officer to verify the evidence brought on record by the assessee and allow the same, if found correct. Consequently, this ground is allowed for statistical purpose. Resultantly, appeal filed by the assessee is partly allowed.*

4. Thus, in view of the direction given by the Tribunal in the earlier year, we also remand back the issue to the file of the Id. AO on similar lines. Accordingly, the appeal of the assessee is allowed for statistical purposes.

**5. In the result, the appeal of the assessee is allowed for statistical purposes.**

Order pronounced on 31<sup>st</sup> March, 2023

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 31/ 03/2023  
KARUNA, *sr.ps*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**