

**आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं  
मजनीय श्री मनोमोहन दास न्यायिक सदस्य का समक्ष।  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM,**  
**AND HON'BLE SHRI MANOMOHAN DAS, JUDICIAL MEMBER**

आयकर अपील सं./ **ITA No.310/Chny/2023**  
(निर्धारण वर्ष / Assessment Year: 2016-17)

<b>Hotel Radhaprasad</b> 233, Brough Road, Erode-638 001.	<b>बनाम</b> / Vs.	<b>ACIT</b> Circle-1 Erode.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. <b>AAHFH-6328-P</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri M.Karunakaran (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri D.Hema Bhupal,(JCIT) –Ld.DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	25-04-2023
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	25-04-2023

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2016-17 arises out of order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 10-01-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 20-12-2018. The sole grievance of the assessee is disallowance of interest. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. The assessee firm is engaged in running a Hotel at Erode. At year-end, the assessee had cash balance of Rs.39.82 Lacs and advances of Rs.490.83 Lacs whereas the assessee had obtained loan of Rs.350 Lacs from City Union Bank. Out of this loan, an amount of Rs.170 Lacs was transferred to one of the partners of the firm whereas another Rs.30 Lacs was transferred to another partner as drawings. The remaining amount of Rs.150 Lacs was held as cash. The details and purpose of loan could not be explained by the assessee which led Ld. AO to disallow interest expenditure of Rs.25.53 Lacs as claimed by the assessee against this loan.

3. During appellate proceedings, the assessee, inter-alia, submitted that interest of Rs.12.40 Lacs was received against amount of Rs.170 Lacs as transferred to one of the partners. Considering the same, Ld. AO was directed to verify the same and reduce the disallowance, if found correct. At the same time, Ld. CIT(A) observed that as nothing has been submitted in support of this claim, the action of Ld. AO is confirmed. Regarding cash withdrawal of Rs.150 Lacs, the interest disallowance was confirmed since the use of bank loan was not explained. Aggrieved, the assessee is in further appeal before us.

4. From the facts, it appears that the assessee has recovered interest from partner against lending of Rs.170 Lacs and therefore, the disallowance to that extent would not be sustainable. The Ld. AO is directed to verify the same and if found correct, delete the disallowance to that extent. Regarding cash withdrawal, the disallowance has been confirmed only due to the fact that the use of bank loan was not explained by the assessee. If the assessee is able to demonstrate the use for business purposes, the disallowance would not be sustainable.

The Ld. AO is directed to verify the same and re-adjudicate the issue to that extent. The assessee is directed to substantiate its claim.

5. The appeal stand allowed for statistical purposes.

Order pronounced in the open court on 25<sup>th</sup> April, 2023

Sd/- ( MANOMOHAN DAS) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखा सदस्य / ACCOUNTANT MEMBER
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चेन्नई / Chennai; दिनांक / Dated : 25.04.2023  
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**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त/CIT 4. विभागीय प्रतिनिधि/DR 5. गार्ड फाईल/GF