

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 414/Srt/2023 (Assessment Year 2017-18)

(Physical hearing)

Sheelaben D. Italia, 10, Vaibhav Bunglow, City Gymkhana Road, Piplod, Surat. PAN No. AACPI 0617 F	Vs.	I.T.O., Ward-2(3)(4), Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	None
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	14/06/2023
Date of hearing	15/09/2023
Date of pronouncement	27/09/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 25/04/2023 for the Assessment Year (AY) 2017-18. The assessee has raised following grounds of appeal:

"1. On the facts and circumstances of the case and in law, the Id. CIT(A) has erred in confirming the adjustment made by CPC making addition of Rs. 4,12,540/- on the basis of entries found in form No. 26AS, particularly when:

- a) Entire interest income of Rs. 8,24,766/- was declared in interest account and net result Rs. 4,11,258/- after deduction of interest payment of Rs. 12,36,024/- was shown in profit & loss account.*
- b) Same treatment was given in the immediate preceding year, which was accepted.*
- c) Confirming the adjustment of CPC causing double taxation.*

2. Appellant craves leave to add, alter, vary or delete any of the ground(s) either before or in the course of the hearing of the appeal."

2. Brief facts of the case are that the assessee is an individual, filed her return of income for A.Y. 2017-18 on 07/11/2017 declaring income of Rs. 11,19,438/-. In the computation of income, the assessee has shown income from house property, business income, capital gain and income from other sources. The return was processed by the Central Processing Centre, Bangalore (CPC) vide intimation dated 08/02/2019. The CPC while processing the return of income made addition/adjustment of Rs. 4,12,541/- on the basis of entries found in Form No. 26AS and enhanced the income accordingly by making addition under the head "income from other sources".
3. Aggrieved by the additions in the assessment order, the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed her detailed written submissions. Submissions of assessee is recorded on page No. 3 to 5 of order of Id. CIT(A). The assessee in its submission, submitted that the assessee received interest income of Rs. 8,24,766/- from three parties, out of which one party deducted TDS of Rs. 4,25,114/-. The assessee has paid interest of Rs. 12,36,024/- to various parties and remaining difference amount of Rs. 4,11,258/- was deducted from business income in the computation of income. The assessee received interest income of Rs. 61,869/- which is shown under the head "income from other sources". The CPC compared the interest income reflected in Form No. 26AS and net interest income shown in

the computation of income and the difference of Rs. 4,12,541/- was added. The assessee further submitted that the CPC may have issued notice/letter to the assessee before making adjustment but no information of such notice on registered mail or mobile number was received, thus no compliance could be made. No reasonable and proper opportunity to represent her case was provided which resulted in violation of natural justice. The programming of computerized system of CPC which is based on data, cannot consider allowability, therefore, enhancement of income was made merely on the basis of entries found in the form No. 26AS without deduction of expenditure. The Legislature has considered such situation and abolished any adjustment merely on the basis of entries found in Form No. 26AS w.e.f. 01/04/2018. There are numerous case laws favouring the assessee on identical set of facts. To support such view, the assessee relied upon the decision of Agra Tribunal in Devendra Nath Dewedi Vs Department of Income Tax in ITA No. 253/Agr/2013, Chennai Tribunal in P.K. Rajasekar Vs ITO ITA No. 121/Chn/2016, Sree Sankeswara Foundations and Investments Vs ACIT ITA No. 3288/Chn/2019 and Kolkata Tribunal in ITO Vs M/s Star Consortium ITA No. 4/Kol/2020. On the basis of such submission, the assessee prayed that no addition is warranted and addition deserve to be deleted.

4. The Id. CIT(A) after considering the submission of assessee recorded that in the impugned assessment year, the assessee received gross interest income of Rs. 8,24,766/- from three parties, out of which one party made TDS on interest amount of Rs. 4,25,116/-. The assessee incurred interest expenses of Rs. 12,36,024/-. The assessee claimed net interest difference of Rs. 4,11,258/- which was set off against business income while computing the total income. The Id. CIT(A) after recording the aforesaid facts, confirmed the adjustment/addition on various counts firstly, the assessee has not given reason why the advance was made, secondly, why the advance was made, thirdly, why the advance was availed no proved nexus between the loan availed and advance, the assessee has not explained the details in income tax return whether interest expenses is correctly disclosed in her return of income, TDS does not correlate with the interest income and the assessee simply made a bald assertion that e-mail or communication issued by CPC were not received, no cogent material to that effect is placed. The Id. CIT(A) further noted that unsecured loan availed by the assessee at the end of financial year was of Rs. 1.83 crore which is around 50% of total balance sheet. The assessee made huge investment in property. On such observation, the Id. CIT(A) held that the CPC made adjustment correctly. Further aggrieved, the assessee has filed present appeal before this Tribunal.

5. Notice of appeal was served upon the assessee for the date fixed on 14/08/2023. On 14/08/2023, the assessee sought adjournment by filing application on 11/08/2023 through Soni Associates, Advocate and Tax Consultant, Surat and the appeal was adjourned to 15/09/2023. On 15/09/2023, none appeared on behalf of assessee. Perusal of record shows that the assessee has filed a detailed written submission on record to substantiate various grounds of appeal alongwith computation of total income, detail of interest paid and interest received. Therefore, we decided to adjudicate the appeal after hearing the submission of learned senior departmental representative (Id. Sr. DR) for the revenue and the material available on record. The Id. Sr. DR for the revenue supported the order of Id. CIT(A).
6. In the written submission, the assessee has submitted that the assessee is a regular income tax assessee and furnished complete books of assessee in due course. During the year under consideration, the assessee earned income from house property, share of partnership firm and income from other sources. The assessee received interest of Rs. 8,24,766/- and paid interest of Rs. 12,36,024/-. The net (difference) of interest expenditure amount of Rs. 4,11,258/- was claimed from business income being related to business. Interest income received from bank of Rs. 61,869/- was shown under the head "income from other sources". The CPC made adjustment and enhanced the income

by Rs. 4,12,541/- being difference of total income shown by assessee from other sources. The assessee submitted against the interest income of Rs. 8,24,766/- from three parties out of which one party deducted TDS on the amount of interest of Rs. 4,25,116/-. The assessee incurred total interest expenses of Rs. 12,36,024/- and difference of Rs. 4,11,258/- was deducted from business income in computation of income. The bank interest of Rs. 61,869/- was shown under the head "income from other sources". The CPC compared the interest income reflected in form No. 26AS and net interest income shown in computation of income and found difference of Rs. 4,12,541/- which was added to total income and created demand. The assessee in all fairness in her submission mentioned that the CPC might have issued notice to the assessee before making adjustment but no such notice was received on her registered e-mail or mobile number, thus no compliance could be made. The CPC which is a computerized system works on the basis of programming, which is based on data and cannot consider allowability. Therefore, an enhancement was made only on the basis of entry found in Form No. 26AS without allowing deduction of expenditure. The Legislature considered such difficulties of the tax payer and omitted/ removed any adjustment on the basis of entries found in Form No. 26AS w.e.f. 01/04/2018. The Id. CIT(A) completely unjustified in making/confirming adjustment on irrelevant reasons. All

the reasons/basis of Id. CIT(A) is reiterated in her submission. The Id. CIT(A) has not applied his mind and has gone in a deal instead of making correction in the order. To support her submission, no addition can be made on the basis of entries found in Form No. 26AS, the assessee relied upon the following case laws:

- (1) Devendra Nath Dewedi Vs Department of Income Tax in ITA No. 253/Agr/2013,
 - (2) P.K. Rajasekar Vs ITO ITA No. 121/Chn/2016.
 - (3) Sree Sankeswara Foundations and Investments Vs ACIT ITA No. 3288/Shn/2019
 - (4) ITO Vs M/s Star Consortium ITA No. 4/Kol/2020
 - (5) Ravindra Pratp Thareja Vs ITO ITA No. 137/Jbl/2014 dated 31/03/2015
7. I have considered the submission of Id. Sr. DR for the revenue and the written submission of the assessee. I find that the CPC made adjustment/ addition of Rs. 4,12,540/- while processing the return on 08/02/2019. Such adjustment was made due to mismatch of interest income and entries in Form No. AS26 as reflected in last page of intimation/order under Section 143(1). Before the Id. CIT(A), the assessee filed her detailed written submission. The Id. CIT(A) despite accepting the fact that the addition is made due to entries reflected in Form No. AS26 and interest income shown by assessee. Instead of examining the fact of the case in a proper perspective, has given a different theory in para 4 of his order.

8. On examination of computation of income which, is made a part of order by Id. CIT(A), I find that the assessee has shown bank interest under the head income from other sources and net difference of interest income earned and interest income incurred of Rs. 4,11,258/- is reduced from business income. Thus, I find merit in the written submission that the CPC has not considered or unable to consider the allowability of interest income earned and interest incurred due to mechanical working. I also find merit in the written submission that no addition on 26AS alone can be a basis for making addition without verification of fact as has been held by various Benches of the Tribunals, therefore, the addition/adjustment made by Assessing Officer and confirmed by Id. CIT(A) is deleted. In the result grounds of appeal raised by the assessee are allowed.
9. In the result, this appeal of assessee is allowed.

Order announced in open court on 27th September, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 27/09/2023

**Ranjan*

Copy to:

1. Assessee –
2. Revenue –
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat