

**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT**

(through web-based video conferencing platform)

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

**ITA No. 146/Rjt/2023
Assessment Year : 2012-13**

Shri Sahadevsinh Vajesinh Vaghela, B-51, Prayag B, Nr. Hotel Mohit, Sir Harilal Gosalia Marg, Rajkot-360001 PAN : ABOPV 3578 M	Vs	The DCIT, Circle-1(2), Rajkot
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Dixit Tanna, AR
Revenue by :		Shri V.J. Boricha, Sr. DR

सुनवाई की तारीख/Date of Hearing : 15/11/2023
घोषणा की तारीख /Date of Pronouncement: 22/11/2023

आदेश/ORDER

PER WASEEM AHMED, AM :

This appeal filed by the assessee is directed against the order of learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" for short] dated 20.03.2023 arising in the matter of assessment order passed under Section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") relevant to the Assessment Year 2012-13.

2. The assessee has raised following ground of appeal:-

"The ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred as to the "CIT(A)"] erred on facts as also in law in confirming disallowance of interest expenses of Rs.6,55,080/- on the alleged ground that the appellant failed to substantiate its claim alongwith supporting evidence. The disallowance made is totally unjustified and uncalled for and the same may kindly be deleted."

3. The solitary issue raised by the assessee is that the Id. CIT(A) erred in confirming the disallowance of interest expenses of Rs. 6,55,080/- which was claimed under Section 57 of the Act.

4. The brief facts of the case are that the assessee, in the present case, is an individual and filed his return of income declaring the total income at Rs. 14,35,230/-, which was derived from house property and other sources. The assessee has borrowed funds from the bank for an amount of Rs. 70 lakhs on interest @ 14.50% during the year under consideration. The assessee, against such loan has incurred an interest expense of Rs. 10,47,100/- only. The assessee during the assessment proceedings submitted that he has given a loan of Rs. 50 lakhs to M/s VJ Jewellers on interest @ 13% and earned interest income of Rs. 6,55,080/- only, which was offered to tax under the head "income from other sources". The assessee, against such interest income, has claimed interest expenses of the same amount and thereby showing net interest income at Rs. Nil. However, the Assessing Officer disallowed the interest expenses claimed by the assessee on the reasoning that there was no documentary evidence filed by the assessee suggesting that the money was advanced to M/s VJ Jewellers out of borrowed funds. Accordingly, the Assessing Officer added the same i.e. Rs. 6,55,080/- to the total income of the assessee.

5. Aggrieved, the assessee preferred an appeal before the Id. CIT(A) who confirmed the order of the Assessing Officer by observing as under:

"6.9. In view of the above, I am of the considerate view that the appellant has paid interest at a higher rate, received interest at lower rate due to circumstances mentioned. However, the appellant has not been able to prove the genuineness of the claim that the purpose for which loan was received was delayed as he has not mentioned when the loan advanced was repaid and the reasons for agreeing to advance amount at lesser interest rate and not repaying the loan instead except for claiming the same to be unforeseen

circumstances and to recover the loss of interest expense. The nexus between the transactions has been explained but however could not be verified with supporting documents. Therefore, the addition made by the learned AO is upheld."

6. Being aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

7. The Id. AR before us filed a paper-book running from page Nos. 1 to 79 and drew our attention on page no. 26 of the paper-book where the bank statement of the assessee was placed. The Id. AR based on the bank statement demonstrated before us that the loan amount of Rs. 70 lakhs was received in Jivan Commercial Co-operative Bank Ltd.; out of which the loan amount of Rs. 50 lakhs was advanced to M/s. VJ Jewellers. The Id. AR further submitted that the assessee has borrowed funds at the higher rate, whereas he has advanced loan at a lower rate of interest, but the interest was claimed as deduction only to the extent of interest income. As such, there was no loss claimed by the assessee under the head "income from other sources". The Id. AR, in support of his contention, drawn our attention on the computation of income placed at page Nos. 7-10 of the paper-book demonstrating that the interest expenses was claimed to the extent of interest income only.

8. On the other hand, Id. DR vehemently supported the orders of the authorities below.

9. We have heard the rival contentions of both the parties and perused the materials available on record. On perusal of the bank statement placed on page No. 26 of the paper-book, there remains no ambiguity that the advance was given by the assessee on interest basis out of the borrowed funds. Thus, there is a direct nexus between the interest expenditure vis-à-

vis interest income. Therefore, we can safely hold that the interest expense has been incurred by the assessee for earning of interest income. Therefore, the assessee is eligible for a deduction of interest expense under Section 57 of the Act.

10. It is also important to appreciate that though the assessee incurred more interest expense against the interest income, but the assessee has claimed interest expense to the extent of interest income only which is evident from the computation of income filed by the assessee placed on page No. 8 of the paper-book. Accordingly, we set aside the findings of the ld. CIT(A) in this regard and direct the Assessing Officer to delete the addition made by him. Hence, the ground of appeal raised by the assessee is allowed.

11. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 22/11/2023 at Ahmedabad.

Sd/-

Sd/-

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

(WASEEM AHMED)
ACCOUNTANT MEMBER

Ahmedabad, Dated 22/11/2023

SR

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. □ पीलर्णी / The Appellant
2. प्रत्यर्णी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (□ पील) / The CIT(A)-
5. विभागीय प्रतिनिधि□ धिकरण □ पीलीय आयकर , /DR,ITAT, Rajkot,
6. गर्ड फर्ल /Guard file.

आदेशमुस/ BY ORDER,

TRUE COPY

सहस्रक पंजीकर (Asstt. Registrar)
आयकर □ पीलीय □ धिकरण
ITAT, Rajkot