

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA NO. 55/Chd/2023
निर्धारण वर्ष / Assessment Year : 2016-17

Shree Krishna Jewels SCO 861, Ground Floor, NAC, Manimajra, Chandigarh	बनाम	The ITO Ward-4, Panchkula Haryana
स्थायी लेखा सं. / PAN NO: ACEFS2655P		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : None
राजस्व की ओर से/ Revenue by : Shri Dharam Vir, JCIT, Sr. DR
सुनवाई की तारीख/ Date of Hearing : 07/05/2024
उद्घोषणा की तारीख/ Date of Pronouncement : 24/05/2024

आदेश/Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the assessee against the order of the Ld. CIT(A) / NFAC Delhi dt. 13/12/2022 pertaining to Assessment Year 2016-17 wherein the limited ground of appeal relates to sustenance of addition of Rs. 5,61,720/- under section 36(1)(iii) of the Act.

2. None appeared on behalf of the assessee firm nor any adjournment application was filed. It was decided that no useful purpose would be met by adjourning the matter any further and to decide the matter basis material available on record.

3. Briefly, the facts of the case are that during the course of assessment proceedings, the AO observed that the assessee has given loans and advances of Rs. 1,36,81,000/-, however no interest income has been shown by the assessee whereas the assessee has claimed interest expenditure of Rs. 55,96,790/- on loan taken from various banks as well as unsecured loans. Accordingly, the assessee was asked to explain the purpose of loan/ advances given during the period and in response, the assessee submitted

that the advances was given and transferred to the joint account of Shri Shanti Nath Bansal (partner of the assessee firm) and Smt. Laj Rani Bansal, mother of Shri Shanti Nath Bansal for repayment of loan taken from HDB Finance Services. As per the AO, evidence of repayment of loan amount of Rs. 90,00,000/- has only been submitted and therefore, the assessee was issued a show cause as to why the proportionate interest on the remaining amount of Rs. 46,81,000/- @ 12% should not be disallowed under section 36(1)(iii) of the Act and thereafter in absence of any documentary evidence submitted by the assessee firm, interest @ 12% of Rs. 46,81,000/- was disallowed under section 36(1)(iii) of the Act and an amount of Rs. 5,61,720/- was brought to tax.

4. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A) who has since sustained the said addition. Against the said finding and the direction of the Ld. CIT(A), the assessee is in appeal before us.

5. None appeared on behalf of the assessee firm however from perusal of the statement of facts submitted as part of the appeal documentation, it was submitted by the assessee that this is a family partnership firm involving Shanti Nath Bansal (son), Seema Bansal (daughter in law) and Karan Bansal (grandson) of Smt. Laj Rani Bansal, who is the mother of Shanti Nath Bansal. Since it is a family concern, the issue of having advanced any sort of loan to mother from a son or family concern, in this case, does not arise. The amount of Rs. 1,36,81,000/- was transferred to Joint A/c of Sh. Shanti Nath Bansal (partner of firm) & Smt. Laj Rani Bansal (mother of Sh. Shanti Nath Bansal) to prepay a outstanding loan that is taken for the firm M/s Shree Krishna Jewels which is clearly shown in bank statement of firm due to the fact that the firm was to prepay a outstanding loan to bank and bank was charging a prepayment charges of 4 percent on amount of loan if paid from Current Account of the firm i.e., M/s Shree Krishna Jewels, so the firm transferred the above mentioned amount of Rs. 1,36,81,000/- to the Joint Saving account of Sh. Shanti Nath Bansal and Smt. Laj Rani Bansal, from this saving account,

they repaid an amount of Rs. 90,00,000/-. The whole amount could not be repaid upto 31st March 2016 due to the fact that bank was not agreeing to waive off the prepayment charges on rest of the outstanding loan amount and after regularly pursuing from the bank, they waived off the prepayment charges in the 1st week of July 2016 and immediately after that, the loan was paid off by Sh. Shanti Nath Bansal. But the Assessing Officer without giving due regard to these explanation has added back proportionate interest amounting Rs. 5,61,720/- in total income of the assessee which is not genuine and against the law of natural Justice and the same be directed to be deleted.

6. We have heard the Id DR and perused the material available on the record.

7. The undisputed facts which are emerging from the record are that an amount of Rs. 1,36,81,000/- was transferred to the joint bank account of Shri Shanti Nath Bansal and Smt. Laj Rani Bansal and out of that, amount of Rs. 90,00,000/- has been utilised towards pre payment of outstanding loan taken by the assessee firm from the bank during the year under consideration and to that extent, the AO has accepted the explanation of the assessee. Regarding the remaining amount of Rs. 46,81,000/- the assessee has submitted that the said amount though transferred in the joint account for the purpose of repayment, the same could not be utilised for repayment during the year for the reason that the bank was not agreeing to waive off pre payment charges and said settlement regarding the pre payment charges happened in the subsequent F.Y. in the first week of July 2016 and thereafter, the amount was paid off to the bank. It has been also submitted that the AO without giving due regard to the said explanation has brought the said amount for tax by way of imputing the interest forgone in the hands of the assessee firm.

8. In our view, given the fact that the AO has accepted the earlier repayment of Rs. 90,00,000/- towards loan taken by the assessee firm, the

remaining repayment after close of the F.Y. needs to be treated on equal footing and where the same is found to be in order, the assessee deserved the necessary relief. We therefore deem it appropriate that the matter be set aside to the file of the AO for the limited purpose of verifying the repayment of remaining amount of Rs. 46,81,000/- to the bank from the joint saving bank account of Shri Shanti Lal Bansal and Smt. Laj Rani Bansal and where on verification the same is found to be in order, the proportionate interest so disallowed by the AO is directed to be deleted.

9. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 24/05/2024.

Sd/-

परेश म. जोशी
(PARESH M. JOSHI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar