

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.395/PUN/2024  
निर्धारण वर्ष / Assessment Year : 2017-18

Rajendrasinh Dilubha Jadeja, Flat No.6, Bhargav Apartment, Gangapur Road, Near Akashwani Tower, Nashik- 422013. PAN : ACUPJ6683N	Vs.	ACIT, Circle-1, Nashik.
Appellant		Respondent

Assessee by : Shri Sanket Joshi  
Revenue by : Shri Sourabh Nayak

Date of hearing : 31.05.2024  
Date of pronouncement : 13.06.2024

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

This appeal filed by the assessee is directed against the order dated 29.12.2023 passed by Ld CIT(A)/NFAC for the assessment year 2017-18.

2. The appellant has raised the following grounds of appeal :-

- “1] The learned CIT(A) erred in confirming the disallowance of Rs.71,90,315 towards interest cost incurred for earning interest income credited to profit and loss account without appreciating that the said disallowance was not justified on facts and in law.
- 2] The learned CIT(A) failed to appreciate that the fact that the interest expenditure of Rs. 71,90,315 was incurred in respect of loans borrowed for the purposes of earning the interest income

*on loans advanced to various parties was evident from the ITR and financial statements filed for A.Y. 2017 - 18 which were available on record of the A.O. and hence, the disallowance made by the A.O. in the asst, order passed u/s 144 was arbitrary and unjustified on facts of the case.*

- 3] *Without prejudice to the above grounds, the appellant undertakes to make proper compliance before the A.O. if one more opportunity of hearing is granted in the interest of justice and hence, it is prayed that the matter may please be set aside to the file of the A.O. for passing the asst, order after proper appreciation of facts already available on his record.*
- 4] *The appellant craves leave to add/ alter/ amend any of the grounds of appeal.”*

3. The facts, in brief, are that the assessee is an individual filed his return of income for the assessment year 2017-18 on 24.03.2018, declaring taxable income of Rs.18,01,790/-. The case was selected for scrutiny under CASS & It was seen by the AO that the assessee has claimed deduction of Rs.71,90,315/- u/s 57 of the I. T. Act. Notices under the provisions of section 143(2) and section 142(1) of the IT Act were issued and served upon the assessee. In reply, the assessee vide letter dated 18.07.2019 made partial submission and prayed for time to file documents in support of claim u/s 57 of the IT Act. In the absence of documents in support of claim, the Assessing Officer without providing further opportunity proceeded to disallow the deduction of Rs.71,90,315/- claimed by the assessee u/s 57 of the IT Act on the ground of non-verification of above deduction and completed the assessment u/s

144 of the IT Act vide order dated 01.10.2019 determining total income at Rs 89,92,105/-

4. Being aggrieved with the above order of the Assessing Officer, an appeal was preferred before Ld CIT(A)/NFAC. Since the assessee remained absent, Ld CIT(A)/NFAC vide order dated 29.12.2023 dismissed the appeal of the assessee.

5. Being aggrieved with the decision of Ld. CIT(A)/NFAC, the assessee is in appeal before this Tribunal.

6. Ld counsel of the assessee submitted before us that that the notices were issued only on ITBA portal & not on email of the assessee, therefore they could not see the notices & consequently could not reply in support of grounds of appeal before Ld CIT(A)/NFAC. It was also submitted before us that along with return of income computation of income P&L account & other relevant information was already available which was not considered by the AO while passing the assessment order *ex-parte*. It was also informed that the computer of the assessee was hacked by CETORIE Virus due to which timely compliance could not be made before the AO. It was the contention of the counsel of the assessee that each & every details are available with the assessee in support of deduction claimed u/s 57 of the IT Act. Under all these circumstances, it was prayed before the bench that one more

opportunity may kindly be provided to the assessee to submit documents in support of the claim of deduction u/s 57 of the IT Act.

7. LD DR on the other hand supported the order passed by revenue authorities.

8. We have heard Ld. counsels from both the sides & perused the material available on the record. We find that due to unavoidable circumstances the assessee could not reply timely to the notices of hearing. The reason being CETORIE Virus due to which the computer was hacked. Therefore we deem it proper in the interest of justice to provide one more opportunity to the assessee to submit his reply before LD CIT(A)/NFAC in support of grounds of appeal. We therefore set-a-side the *ex-parte* order passed by LD CIT(A)/NFAC & restore the matter back to him for fresh adjudication on the merits of the case deciding each grounds of appeal after providing reasonable opportunity of hearing to the assessee. LD CIT(A)/NFAC shall pass the order as per fact & Law deciding each ground of appeal by speaking order after providing reasonable opportunity of being heard to the assessee. The assessee is also hereby directed to respond to the notice issued by Ld. CIT(A)/NFAC and submit the requisite details on the appointed date without seeking any adjournment under any pretext, failing which Ld. CIT(A)/NFAC is at liberty to pass appropriate order as

per law. We hold and direct accordingly. Thus, the grounds of appeal raised by the assessee are accordingly allowed.

9. In the result, the appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 13<sup>th</sup> day of June, 2024.

Sd/-  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 13<sup>th</sup> June, 2024.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.