

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

M.A. No.231/Del/2022
[Arising out of ITA No.6062/Del/2018]
Assessment Year: 2015-16
With
ITA No. 6062/Del/2018
Assessment Year: 2015-16

Spinks India, C/o- M.K. Bhatt & Co., E- 10-12, 302, Triveni Complex, Jawahar Park, Laxmi Nagar, Delhi	Vs.	ACIT, Circle-63(1), New Delhi
PAN :AABFS0535R		
(Appellant)		(Respondent)

Assessee by	Sh. Malav Goswami, Advocate
Department by	Sh. Vivek Vardhan, Sr. DR

Date of hearing	14.06.2024
Date of pronouncement	20.06.2024

ORDER

PER SAKTIJIT DEY, VICE-PRESIDENT

M.A. No. 231/Del/2022

Captioned miscellaneous application has been filed by the assessee under Rule 24 of the Income Tax (Appellate Tribunal) Rules, 1963, seeking recall of *ex-parte* order passed by the Bench disposing of the appeal of the assessee.

2. In the applications filed, the assessee has explained the reasons for his non-appearance supported by an affidavit.

3. Having considered the submissions of the parties, we are of the view that non-appearance of the assessee on the date fixed for the hearing of the appeal was due to reasonable cause. Accordingly, we recall the order dated 14.03.2022 passed in ITA No.6062/Del/2018 and proceed to hear the appeal on merits.

ITA No.6062/Del/20218

4. We have heard the parties and perused the materials on record. As could be seen from the grounds raised, the dispute is with regard to the part disallowance made from interest expenditure. In course of assessment proceedings, the Assessing Officer noticed that the assessee has paid interest on unsecured loan obtained from certain related parties at the rate of 18%. Whereas, he found, assessee had paid interest to partners at 12%. Being of the view that the interest paid to related parties is high and unreasonable, having regarding to the fair market value in terms of section 40A(2) of the Act, the Assessing Officer held that the reasonable rate of interest is 12%. Accordingly, he disallowed the excess interest paid of Rs.11,87,678/-. The

assessee contested the aforesaid disallowance before the first appellate authority without any success.

5. Having considered rival submissions, we find that the assessee has paid interest on unsecured loan taken both from related and unrelated parties at the uniform rate of 18%. The aforesaid factual position has not been controverted by the departmental authorities. Therefore, when interest paid both to related and unrelated parties is at 18%, it cannot be said that such rate of interest is high and unreasonable, having regard to the market value.

6. That being the case, no disallowance can be made by applying the provisions of section 40A(2) of the Act. The Assessing Officer is directed to delete the disallowance made out of the interest expenses.

7. In the result, both miscellaneous application and appeal are allowed, as indicated above.

Order pronounced in the open court on 20th June, 2024

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 20th June, 2024.

RK/-

Copy forwarded to:

1. Appellant

2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi