

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.927/PUN/2023

निर्धारण वर्ष /Assessment Year : 2016-17

Prakash Jwerchand Oswal, D-303, Hyde Park, Market Yard, Near Pitale Nagar, Pune 411 037, Maharashtra PAN : AAPO6496L	Vs.	ACIT, Circle-5, Pune
Appellant		Respondent

Assessee by : Smt. Deepa Khare  
Revenue by : Shri Akhilesh Srivastava

Date of hearing : 04.07.2024  
Date of pronouncement : 04.07.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 29.06.2023 for the assessment year 2016-17.

2. Brief facts of the case are that the appellant is an individual deriving income under the head "Income from Business". The Return of Income for the A.Y. 2016-17 was filed on 15.10.2016 declaring total income of Rs.26,15,010/-. Against the said return of income, the assessment was completed by the Assessing Officer (AO) vide order dated 01.11.2018 passed u/s.143(3) of the Act at a total income of Rs.51,07,140/-. While doing so, the interest expenditure of

Rs.24,92,129/- was disallowed by the AO by holding that the appellant made a claim for deduction of interest expenditure under the head ‘Income from other sources’ against the interest income of Rs.41,85,123/-. The differential amount of the interest income and interest expenditure was disallowed by the AO by holding that the appellant failed to discharge the onus of establishing the nexus between interest earned income and interest expenditure so made.

3. Being aggrieved, an appeal was filed before the Id.CIT(A)/NFAC contending that the interest expenditure was incurred on loans borrowed, utilized for the capital introduced in the partnership firms. The appellant was deriving the interest income, share of profit and the salary from the partnership firms. Therefore, the same should be allowed as a deduction. It was further contended that the AO ought not have applied the ratio of the decision of *Goetz India Ltd. Vs. CIT (2006) 284 ITR 323 (SC)* inasmuch as it does not amount to a fresh claim made. However, the Id. CIT(A) confirmed the action of the AO by holding that the share of profit from the partnership firms is exempt by virtue of provisions of section 10(2A) of the Act. Therefore, the expenses attributable to earning of the share of profit cannot be allowed as deduction.

4. Being aggrieved, the appellant is in appeal before us in the present appeal.

5. The Id. Authorized Representative submits that the Id.CIT(A)/NFAC had fell in serious error in disallowing the claim for deduction of interest income ignoring the settled principle of law that the interest expenditure should be allowed irrespective of fact that there was positive income or not. It is further contended that the remuneration received from the partnership firm as well as the interest on the capital

introduced by the assessee is assessable under the head 'Business Income'. Therefore, the interest expenditure incurred on the borrowed funds which were utilized for the purpose of introduction of capital in the partnership firms should be allowed as deduction.

6. On the other hand, the Id. Sr. DR placing reliance on the orders of the authorities submitted that since the order of the Id.CIT(A)/NFAC is a reasoned one no interference is called for.

7. We heard the rival submissions and perused the relevant material on record. The solitary issue that arises for our consideration is Whether the interest expenditure claim can be allowed as a deduction or not? No doubt, the appellant had claimed the said interest expenditure u/s.57(iii) of the Act in the return of income. However, it is the case of the appellant that the interest expenditure was incurred on the loans borrowed which are utilized for the purpose of introduction of capital in the partnership firms. It is only during the course of proceedings before the CIT(A)/NFAC that the appellant firm had filed the details of income earned in the form of remuneration, interest, share of profit from the partnership firms. Keeping in view the settled principle of law that the purpose of income-tax proceedings is only to compute the correct tax liability of an assessee, we are of the considered opinion that the Id.CIT(A)/NFAC after admitting the additional evidence, ought to have called for a remand report from the AO, then adjudicated the issue in proper perspective. There is no dispute about the proposition that the remuneration, interest on the capital received from the partnership firms is assessable under the head 'Business Income'. Further, we note that in the immediate preceding assessment year, the CIT(A) had allowed the claim. In view of these facts, we are of the considered opinion that the matter requires a remission to the file of Assessing Officer with direction

to allow the claim for deduction of interest expenditure on being satisfied himself that the loans borrowed on which interest expenditure was claimed were utilized for the purpose of introduction of the share capital in the partnership firms after due verification. We order accordingly.

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 04<sup>th</sup> day of July, 2024.

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

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04<sup>th</sup> July, 2024  
*Satish*

**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

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