

**THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 309/KOL/2023
Assessment Year: 2006-2007**

***Seikh Abdul Sabir,
Golihat Nimtala Masjid,.....Appellant
P.O. Sripally,
Dist. Purba Bardhaman-713101, W.B.
[PAN:AZAPS9812M]***

-Vs.-

***Commissioner of Income Tax (Appeals),.....Respondent
Burdwan,
Near Court Compound,
Burdwan-713101***

Appearances by:

*Shri Soumitra Choudhury, Advocate & Shri Rajeeva
Kumar, Advocate, appeared on behalf of the assessee*

*Shri Arun Kanti Dutta, Addl. CIT, Sr. D.R. appeared on
behalf of the Revenue*

Date of concluding the hearing: July 03, 2024

Date of pronouncing the order: July 04, 2024

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 31st January, 2023 passed for assessment year 2006-07.

2. The assessee has raised seven grounds of appeal, but in brief, his grievances revolve around two fold of grievances, namely-

(a) Id. CIT(Appeals) has erred in confirming the disallowance of interest expenditure paid to M/s. Dakshin Damodar Cold Storage Pvt. Ltd.; and M/s. Dakshin Damodar Rice Mill Pvt. Ltd.

(b) Id. CIT(Appeals) has erred in confirming the addition of interest income amounting to Rs.5,50,679/-.

3. Brief facts of the case are that the assessee has filed his return of income on 30.11.2006 declaring net loss of Rs.1,35,26,978/-. Original assessment was made on 31.12.2008 under section 143(3) of the Income Tax Act. The Id. Assessing Officer has determined the taxable income at Rs.8,21,119/-. The assessment thereafter was reopened by issuance of a notice under section 148 of the Income Tax Act and a reassessment order under section 147 read with section 143(3) was passed on 26.11.2011 determining the taxable income of the assessee at Rs.23,84,187/-. It emerges out that the issues travelled upto the Tribunal in the first round and ultimately ITAT has relegated certain issues for verification and grant of telescoping benefit in ITA No. 899/KOL/2015 for A.Y. 2006-07. The Id. Assessing Officer has confronted the assessee as to why interest expenditure debited against the claim of M/s. Dakshin Damodar Cold Storage Pvt. Ltd.; and M/s. Dakshin Damodar Rice Mill Pvt. Ltd. should not to be

disallowed. The ld. Assessing Officer thereafter reproduced the replies submitted by the assessee as well as annexed the bank statement, copy of the ledger as annexure in the assessment order. He made disallowance of interest expenditure amounting to Rs.60,80,620/- paid Dakshin Damodar Cold Storage Pvt. Ltd. and Rs.13,18,778/- paid M/s. Dakshin Damodar Rice Mill Pvt. Ltd.

4. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

5. With the assistance of ld. Representatives, we have gone through the record carefully. It has been brought to our notice that M/s. Dakshin Damodar Cold Storage Pvt. Ltd. and M/s. Dakshin Damodar Rice Mill Pvt. Ltd. are the principal borrowers from ICICI Bank and from that amount, credits have been given to the assessee. The assessee has paid proportionate interest on the amounts borrowed from these two concerns. According to the assessee, some errors have crept in while posting the figure in the ledger account, which have been rectified by the assessee and original accounts were submitted before the ld. Assessing Officer for verification. It was submitted that there cannot be any interest income to the assessee because he is a borrower from the principal borrowers, namely M/s. Dakshin Damodar Cold Storage Pvt. Ltd., M/s. Dakshin Damodar Rice Mill Pvt. Ltd. The ld. Counsel for the assessee drew our attention towards the bank statement, balance-sheet and other details in order to demonstrate that actually interest was payable by the assessee instead of interest income.

6. On the other hand, ld. D.R. relied upon the orders of revenue authorities below. He further contended that there is a discrepancy in posting the figures in the ledger account, though assessee has rectified his ledger by debiting this interest expenditure but correspondingly M/s. Dakshin Damodar Cold Storage Pvt. Ltd. or M/s. Dakshin Damodar Rice Mill Pvt. Ltd. have not recognized those interest income.

7. On due consideration of the above facts and circumstances, we find that ITAT has restricted the ld. Assessing Officer *qua* an issue that benefit of telescoping is to be granted to the assessee. The ld. Assessing Officer is not required to go beyond the decree of ITAT. He has to verify the interest income, vis-à-vis interest expenditure and then ought to determine the net figure. At this stage, ld. Sr. D.R. drew our attention towards the finding of ITAT, which has been reproduced by the ld. Assessing Officer in paragraph no. 3 of the assessment order and submitted that he was not only give effect telescoping, but also authorize to examine the other connected issues. We find that in the balance-sheet as well as in the Bank statement, the assessee has duly demonstrated that he has to pay the interest expenditure. There might be some human error in posting the figure in the ledger account, therefore, on that basis, the interest expenditure ought to have not been disallowed by the assessee. Accordingly, we allow all these grounds of appeal and delete the disallowances.

8. As far as Ground No. 6 of the appeal is concerned, the assessee is impugning the addition of Rs.5,50,679/-, which was

added by the ld. Assessing Officer on account of interest income not accounted for. With this regard, the assessee has filed a note, which reads as under:-

3. **“The addition of interest income of Rs 5,50,679/-**

The AO added a sum of Rs.5,50,679/- to the total income of the assessee [Sk. Abdul Sabir] since he received interest amounting to Rs.34,53,670/- from various banks on fixed deposits but disclosed Rs.29,03,081/- in the books.

In this connection, it is submitted that the assessee had taken loan of Rs.2,70,00,000/- from Indian Bank (Loan A/c No.13118) on which interest of Rs.4,08,179/- was payable. Further, on the Cash Credit A/c with Union Bank of India, interest of Rs. 1,42,500/- was payable. Thus, out of the total receipt/receivable of Rs.34,53,760/-, a sum of Rs.5,50,679/- was adjusted and the balance of Rs.29,03,081/- was shown in the books of a/c. Hence, the addition is unjustified”.

9. We find merits in the submission of the assessee. There is some misconception fact at the end of ld. Assessing Officer in assuming additional income of Rs.5,50,679/-. On the other hand, the assessee has already accounted for this income. Therefore, no separate addition is required to be made.

10. In Ground No. 5, the assessee has challenged the disallowance of interest expenditure amounting to Rs.1,98,987/-. The assessee is a proprietor of M/s. Krishi Bikas. In this proprietorship, the assessee was required to pay an interest of Rs.12,00,000/- to M/s. Dakshin Damodar Rice Mill Pvt. Ltd. The assessee has sold paddy to M/s. Dakshin Damodar Rice Mill Pvt. Ltd. and set off the sale price of Rs.10,00,000/- of paddy *qua* the interest payable. However, the assessee could not give any justification regarding the interest expenditure of Rs.1,98,987/-.

The Id. Counsel for the assessee submitted that on account of very old matter, complete details are not available even at present. He expressed his inability to buttress the claim of assessee. Therefore, in view of the above, we do not find any merit in this ground of appeal because there is no supporting evidence filed before us. Accordingly, this addition is confirmed.

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

Order pronounced in the open Court on 04/07/2024.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 4th day of July, 2024

- Copies to :* (1) *Seikh Abdul Sabir,*
Golahat Nimtala Masjid,
P.O. Sripally,
Dist. Purba Bardhaman-713101, W.B.
- (2) *Commissioner of Income Tax (Appeals),*
Burdwan,
Near Court Compound, Burdwan-713101
- (3) *Commissioner of Income Tax (Appeals),*
National Faceless Appeal Centre (NFAC), Delhi;
- (4) *CIT- , Kolkata*
- (5) *The Departmental Representative;*
- (6) *Guard File*
- TRUE COPY**

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.