

**।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE**

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

**आयकर अपील सं. / ITA No.738/PUN/2024
निर्धारण वर्ष / Assessment Year : 2013-14**

Sangita Gopalkrishan Agarwal, A-2/1076, Sobha Carnation, Opp.Sai Service, Pune City, Pune, Kondhwa BK, Maharashtra – 411048. PAN: AEWPA6704P	V s	The Commissioner of Income Tax (Appeal), Pune.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Shashikant amdebar – AR
Revenue by	Shri Rajesh Gawali – Addl.CIT(DR)
Date of hearing	18/06/2024
Date of pronouncement	29/07/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee against the Order u/sec.250 of Income tax Act passed by Commissioner of Income Tax (appeal)/Addl.Commissioner of Income Tax(Appeal)[NFAC] dated 14/02/2024 for A.Y.2013-2014. The assessee has raised the following grounds of appeal:

“1. CIT(A) erred in confirming adhoc disallowance made by AO of Rs.300000 of interest payment of bank loan taken for business purpose.

2. CIT(A) erred in confirming addition made by AO of Rs.1800000 of unsecured loan taken interest payment of bank loan taken for business purpose.”

Brief Facts of the case :

2. In this case the assessee filed Return of Income Electronically for A.Y.2013-14 on 30/09/2013. The assessee’s case was selected for scrutiny. Assessee is a proprietor of M/s.Gopaljee which was trading in steel.

2.1 The Assessing Officer(AO) disallowed part of interest expenses claimed by the assessee and made addition of Rs.3,00,000/-.

2.2 The AO observed that assessee had taken Loan of Rs.18,00,000/- from Surya Steel trading. The Assessee submitted copy of confirmation. The AO observed that the said confirmation letter was not containing Address and PAN. The AO made addition of Rs.18,00,000/-.

3. Aggrieved by the Assessment Order, assessee filed Appeal before the Id.CIT(A). The First Appellate Authority gave seven opportunities but assessee failed to file any submission, hence the First Appellate Authority confirmed the additions.

3.1 Aggrieved by the Order of the First Appellate Authority, the assessee filed appeal before this Tribunal.

Submission of Ld.AR :

4. The Ld.Authorised Representative of the assessee filed a written submission and paper book. The Ld.AR submitted that the assessee had closed down the business hence assessee had not accessed the email of the business. Therefore, there was non-compliance before the Ld.CIT(A). Ld.AR further submitted copy of bank statement, copy of ledger account of Surya Steel trading Co was submitted before the AO. Ld.AR also submitted that the Ledger account was filed before the AO and it contains the PAN of Surya Steel Trading Co.

5. Ld.AR submitted that the interest disallowance is bad in law as the interest was paid for the purpose of business of the assessee. Ld.AR submitted that the Assessing Officer has erroneously

presumed that business funds were utilised for the purpose of purchasing residential flat, where as the fact is that the Assessee had obtained Loan from Tata Capital for purchase of flat. AR filed copy of sanction letter issued by Tata Capital which clearly states Housing Loan. Ld.AR requested for admission of additional evidence.

Submission of Ld.DR :

6. Ld.DR relied on the order of AO and First Appellate Authorities. Ld.DR submitted that the First Appellate authorities had issued 7 notices and assessee failed to comply. Thus sufficient opportunities were provided to the assessee. Ld.DR submitted that assessment order may be confirmed.

Findings and Analysis :

7. We have heard both the parties, perused the records.

Issue of Interest Disallowance :

7.1 The AO has discussed issue of interest disallowance in paragraph 4 of the assessment order. The Paragraph 4 of the assessment order is reproduced here under :

“4] In the schedule C regarding administrative expenses an amount of Rs.5,85,542/- is debited towards interest payment. The assessee in her

letter dated 27.2.2016 has stated that it has borrowed mortgage loan from DCB bank for the purpose of business. The total interest payment is towards this loan only. The information about current investment part of Schedule 6 shows that the assessee has invested the amount of Rs.1,13,42,038/- in Flat (Sobha Development) as against the earlier investment of Rs.74,20,784/-. Thus the assessee has paid Rs.39,21,254/- in the year under consideration. From the financial statement there does not seem to be any source for such amount. It is also seen that unsecured loans are increased by Rs. 20,00,000/- but the current liabilities has decreased by about Rs. 50,00,000/-. Thus the chances of utilisation of the amount of bank loan for the purpose of non business investment cannot be ruled out and the statement of the assessee that the loan is fully utilised for the business cannot be accepted. With this discussion an amount of Rs.3,00,000/- out of interest payment is disallowed and added to the total income.”

8. The Assessee has pleaded that assessee had obtain housing loan from Tata Capital for the purpose of purchase of flat. The Ld.AR pleaded that business funds were not utilised for purchase of flat. However, from the order of the AO, it is not clear whether the Housing Loan details were available at the time of assessment or not! Also assessee failed to file any details before the Ld.First Appellate Authority.

9. As far as the issue of unsecured loan is concerned the Assessee filed copy of confirmation, bank statement of Surya Steel trading Co, Copy of Return of Income of Mukesh Bansal prop of

Surya Steel Trading co in the paper book. Some of these documents were not filed before the AO/Id.CIT(A). These documents are essential to decide the issue. We are of the opinion that there is valid reason for admission of Additional Evidence. Accordingly, we admit the additional evidence.

9.1 However, we are of the opinion that there was sufficient cause for non compliance before the First Appellate Authority. In these facts and circumstances of the case, we set aside the order of the First Appellate Authority to First Appellate Authority for denovo Adjudication, after giving opportunity to the assessee. The Assessee shall file all necessary documents before the First Appellate Authority.

9.2 Accordingly, Appeal of the assessee is allowed for statistical purpose.

10. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 29th July, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 29th July, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच,
पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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