

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.723/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Aashish Bansal PALI (Rajasthan) PAN:AIQPB8693J (Appellant)	Vs.	Asstt. C. I. T. Circle 12(1) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by: CA Jayamala Kankariya		
राजस्व द्वारा/Revenue by: Shri K.N. Suresh Babu, DR		
सुनवाई की तारीख/Date of hearing: 27/08/2024		
घोषणा की तारीख/Pronouncement: 27/08/2024		

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 29/05/2024 of the learned CIT (A)-/Addl/JCIT (A) Thiruvananthapuram, relating to A.Y.2017-18.

2. The assessee raised the following grounds:

- “1. That the assessment order is without jurisdiction.
2. That the notice issued u/s 143(2) is barred by limitation.
3. That the learned Assessing Officer erred in considering the lease rent lower than reasonable ALV and erred in disallowing the total value of interest payable on borrowed capital of Rs.17,87,207/-.
4. That the learned CIT (A) have erred in treating let out property as self-occupied property and restricted the claim of loss upto Rs.20,00,000/- and rejecting the appeal.

5. That assessee craves liberty to add, amend, alter, vary, modify, delete any of the grounds of appeal on or before its hearing”.

3. The brief facts of the case are that the assessee filed his return of income for the A.Y 2017-18 on 23.3.2018 declaring total income of Rs.8,86,930/- and the said return has been subsequently, revised by filing a return on 24.05.2018 declaring total income of Rs.8,86,930/-, same as of original return of income. The case was selected for scrutiny and notice u/s 143(2) dated 22.9.2019 was issued and served on the assessee. The assessee raised objection for notice issued u/s 143(2) on the ground that the said notice is barred by limitation. The Assessing Officer rejected the objection raised by the assessee in light of provisions of section 139(5) of the Act and held that notice issued u/s 143(2) dated 22.09.2018 is within the limitation provided under the Act. The Assessing Officer further noted that the assessee has declared loss from income from house property for Rs.17,18,162/-. The Assessing Officer further noted that the assessee has received rental income of Rs.12,000/- from flat 708, Nizampet Road, Kukatpally, Hyderabad and claimed interest on borrowed capital for Rs.17,87,207/-. Therefore, disallowed interest and added back to total income.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A). During the appellate proceedings, the learned CIT (A) issued show-cause notice dated 14.5.2014 and called upon the assessee to file his

objection in respect of legal ground taken on validity of notice issued u/s 143(2) of the Act and also disallowance of interest claimed u/s 24(b) of the I.T. Act, 1961 against rental income and the said show cause notice was reproduced in page No.2 of the learned CIT (A)'s order. Further, as per the said show-cause notice, the learned CIT (A) directed the assessee to file his reply on or before 21.5.2024. The learned CIT (A) passed order on 29.5.2024 and rejected the legal ground taken by the assessee and partly allowed interest claimed u/s 24(b) of the I.T. Act, 1961 to the extent of Rs.2.00 lakhs on the ground that the property is a self-occupied property and balance interest disallowed for Rs.15,87,207/- was upheld.

4. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. I have heard both the parties, perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant could not file any evidences before the Assessing Officer to prove deduction claimed for interest on borrowed capital against the rental income. From the order of the learned CIT (A), there is no evidence as to whether the appellant has filed his reply in respect of show cause notice dated 14.5.2024 or not, because there is no reference in the order of the learned CIT (A) with regard to the reply filed by the assessee on the show-cause notice.

Further, as per the said show cause notice, the appellant could file his reply on or before 21.5.2024. Since there is no observation from the order of the learned CIT (A) with regard to the reply furnished by the assessee and further the learned CIT (A) has also not discussed the issue of disallowance of interest claimed against the income from house property, in my considered view, the issue needs to go back to the file of the Assessing Officer. Thus, I set aside the issue to the file of the Assessing Officer and direct the Assessing Officer to reconsider the issue denovo in accordance with law after providing reasonable opportunity of being heard to the assessee. Needless to say, the assessee shall file all the requisite details in respect of deductions claimed towards interest on borrowed capital. All other issues, including the validity of notice issued u/s 143(2) is also kept open for the assessee to agitate the issue at appropriate stage.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 27th August, 2024.

Sd/-

**(MANJUNATHA, G.)
ACCOUNTANT MEMBER**

Hyderabad, dated 27th August, 2024.

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Aashish Bansal, B-41, Rama Veer Durga Das Nagar, PALI-306401, Rajasthan
2	ACIT Circle 12(1) Aayakar Bhavan, Opp: LB Stadium, Basheerbagh, Hyderabad 500004
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order