

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER &
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 577/Ahd/2023

(निर्धारण वर्ष / Assessment Year : 2020-21)

Assistant Commissioner of Income Tax Circle-1(1)(1), Vejalpur, Ahmedabad	बनाम/ Vs.	Rakesh Bhikhalal Shah Paras Vidhyanagar HOU. Soc., Vibhag No.3, Opp. Vidhyanagar High School, Usmanpura, Gujarat 380013
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ACDPS9763R		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Nitin Vishnu Kulkarni, Sr. DR
प्रत्यर्थी की ओर से/Respondent by :	Shri Vivek Chavda, AR

Date of Hearing	28/08/2024
Date of Pronouncement	30/08/2024

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal is filed by the Revenue against the order of the National Faceless Appeal Centre (NFAC), Delhi, (in short ‘the CIT(A)’) dated 25.05.2023 for the Assessment Year 2020-21.

2. The brief facts of the case are that the assessee filed his revised return of income for the AY 2020-21 on 15/10/2020 declaring income of Rs.6,25,96,830/-. The assessee had shown interest income against which interest expenditure was claimed.

In the course of assessment the AO examined the claim of the interest expenditure. He found that the assessee had taken extra loan on which interest was paid and which was not utilized for earning any income. The AO worked out the interest on excess loan at Rs.1,84,72,013/- which was disallowed u/s 57 of the Act. Aggrieved with the order of the AO, the assessee filed an appeal before the First Appellate Authority which was decided vide the impugned order and the addition as made by the AO was deleted.

3. Now the Revenue is in appeal before us. The following grounds have been taken in this appeal:

1. *"Whether on facts and circumstances and in law, the Ld. CIT(A) has erred in deleting the disallowing interest expenditure u/s 57 at Rs. 1,84,72,013/- determined by the AO not considering the amount of excess loan taken by the assessee of Rs.25,54,11,286/- on which proportionate disallowance was made."*
2. *"The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary".*
3. *"It is, therefore, prayed that the order of Ld. CIT(A) may be set aside and that of the Assessing Officer be restored".*

4. Shri Nitin Vishnu Kulkarni, the Ld. Sr. DR submitted that the Ld. CIT(A) had allowed relief to the assessee by admitting additional evidences and without allowing any opportunity to the AO. He explained that the figure of loan taken and loan utilized as adopted by the AO in the assessment order was on the basis of the details as furnished by the assessee himself. But the Ld. CIT(A) had accepted the contention of the assessee that the

figures of loan amount as taken by the AO was not correct. Before the Ld. CIT(A) the assessee had submitted that the amount of loan borrowed was much less than the amount as considered by the AO which was accepted by him without any verification. The Ld. Sr. DR further submitted that the finding of the Ld. CIT(A) that the AO had made the disallowance mechanically was not correct.

5. Per contra, Shri Vivek Chavda, the Ld. AR submitted that Ld. CIT(A) had considered a correct figure of loan borrowed and loan advanced by the assessee and thereafter had allowed relief to the assessee. He further submitted that the Ld. CIT(A) had given a categorical finding that the interest expense had a direct nexus with the earning of income from interest as well as dividend by the assessee. The Ld. AR strongly supported the order of the Ld. CIT(A).

6. We have carefully considered the rival submissions. In the course of assessment the AO had called for details of loans obtained and loans advanced by the assessee. The chart of loan obtained as furnished by the assessee was reproduced in the assessment order. On the basis of this chart the AO has given a finding that total loans advanced during the year was Rs.39,83,05,000/- only whereas the total loan taken by the assessee was Rs.71,55,00,000/-. Further the assessee had also got repayment of loan from M/s. Kanchan Pharma Private Limited amounting to ₹63,84,15,953/-. On the basis of this information the AO had concluded that there was no correlation between the

loans taken and the advances as well as investments in the mutual funds and shares as made by the assessee. The AO had considered the loans advanced as well as other investments and thereafter worked out the proportionate interest on the excess loan taken by the assessee which was not utilized for the purpose of earning of any income. Accordingly the AO had made disallowance of Rs.1,84,72,013/- on account of excess claim of interest u/s 57 of the Act. The Ld. CIT(A) has given a finding that the loan amounts considered by the AO was incorrect as the assessee had filed rectified figures before him. As per the rectified figures the amount borrowed was Rs.33,75,03,336/- whereas the amount advanced was Rs.31,92,08,249/-. The assessee had contended that the AO had wrongly taken the loan amount of Rs.71,55,00,000/- whereas the correct figure of the loan taken was Rs.33,75,03,336/- only. It was further submitted that the excess loan taken by the assessee was wrongly mentioned at Rs.25,54,11,286/- as against the actual and correct figure of Rs.1,82,95,087/- only. The Ld. CIT(A) had accepted the submissions of the assessee without making any verification and without calling for any remand report from the AO which cannot be held as correct. When the figures as submitted before the AO was furnished by the assessee himself the CIT(A) should have verified the revised figures as furnished before him and called for a remand report from the AO in this regard.

7. In view of the above facts, we deem it proper to set aside the matter to the file of the jurisdictional AO to verify the actual

figures of loans taken and loans advanced after allowing and proper opportunity of being heard to the assessee. The AO should also consider the investments made by the assessee in the equity shares and mutual funds out of the borrowed amount while examining the utilization of the borrowed amount by the assessee.

8. In the result, the appeal filed by the Revenue is treated as allowed for a statistical purpose.

This Order pronounced on 30/08/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER
Ahmedabad; Dated 30/08/2024
S. K. SINHA

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

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1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

आदेशानुसार/ BY ORDER,

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