

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **806/Chny/2024**
निर्धारण वर्ष / Assessment Year: 2016-17

Arumuga Nadar Narayanan, Assistant Commissioner of
No. 20/57, New Thandavaraya v. Income Tax,
Gramani Street, Old Corporate Circle -1(1),
Washermenpet, Chennai – 600 021. Chennai.

[PAN: AADPN-2730-K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Smt. M.S. Deeptha, JCIT

सुनवाई की तारीख/Date of Hearing

: 09.08.2024

घोषणा की तारीख/Date of Pronouncement

: 18.09.2024

आदेश /ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2016-17, vide order dated 07.03.2024.

2. The assessee has raised the following grounds of appeal:

"1. The order of the CIT(A) is erroneous and bad in law as the same is contrary to the facts of the case and provisions of the law.

2. INTEREST EXPENSES:

2.1 The CIT(A) erred in upholding the disallowance of interest expenditure of Rs.1,33,570/-.

2.2 The CIT(A) erred in upholding the AO's order, holding that the interest expenses were not incurred for the purpose of Assessee's business or profession.

2.3 The CIT(A) erred in disallowing the interest expenditure without considering the Consolidated financials submitted.

2.4 The CIT(A) failed to consider the entire facts of the case before coming to an untenable conclusion that the borrowed funds has no nexus with the Assessee's business or profession and as such the claim u/s. 36(1)(iii) is incorrect.

3. Employees Contribution Towards PF And ESI:

3.1 The CIT(A) erred in disallowing the entire interest expenses claimed amounting to Rs.1,58,67,203/-.

3.2 The CIT(A) erred in upholding the disallowance of payments made in respect of employees contribution towards PF and ESI, when the same had been made before the due date of filing of the Return of Income.

4. The CIT(A) ought to have seen that the Rectification Petition U/s.154 filed by the Appellant on 07.01.2019, must be deemed to be allowed as per section 154(8) after 6 months from the date of filing and directed the AO accordingly.

5. Any other ground that may be raised at the time of the hearing."

3. The assessee is an individual engaged in the business of trading and service sector namely travel agent, tour operators, transporters money lenders and hotels. His business entities are M/s. A N Pappathi Travels, M/s. A N Pappathi Transport, M/s. ANP Tyres and Services, M/s. Sri Mangalam Pawn Shop, M/s. AN Usha Traders and M/s. Apple Residency. Apart from

the above, the assessee has income in his own capacity as an individual. The assessee filed his return of income for the assessment year 2016-17 on 17.10.2016, admitting a total income of Rs.1,44,67,980/-. The case was selected for scrutiny through CASS and notice u/s. 143(2) of the Act was issued on 04.07.2017 and duly served. The assessment was completed on 22.12.2018 at an assessed income of Rs.3,04,68,396/-. On perusal of assessment order it is observed that the addition was made on account of disallowing u/s. 36(1)(va) of the Act under the head 'income from business or profession' amounting to Rs.1,33,570/- and disallowing interest expenses amounting to Rs.1,58,67,203/-. Accordingly, a sum of Rs.1,60,00,773/- was added back to the income of the appellant. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A) and the Id.CIT(A) has confirmed the disallowance of interest by holding as under:

"6.4 The written submissions as above are perused with care along with the decisions cited. It is noticed from the consolidated accounts that the total interest incurred stands at Rs.3,48,50,314/- of which the interest claim pertaining to individual account is Rs.1,98,34,004/- while the balance claim of interest appears to be pertaining various businesses of the assessee like, M/s A.N.Pappathi Travels & A.N.Pappathi Transport, M/s.Apple Residency, M/s A.N.Usha Traders, A.N.P. Tyres & service, M/s Sri Mangalam Agencies, Sri Mangalam Pawn Shops. It is also noticed from the submissions that the assessee was maintaining separate P&L and B&S for each of these businesses and the interest expenditure in respect of each of these

businesses was being claimed in the respective P&L a/cs. Like for instance, in the case of M/s Apple Residency, a total interest of Rs39,19,048 (Rs 17,89, 226 towards term loan + Rs. 21,29, 822 to sri N Karthik) was claimed. Similarly, In the case of Mangalam Pawn Shops, as noticed from its segmented P&L an interest of Rs. 45,37,9 70/- was claimed. This is to say that the interest expenditure pertaining to each of these separate businesses was being claimed in the separate P&L being maintained for each such businesses. In such a scenario, the interest expenditure claimed in the "individual a/c' cannot be said to be attributable to the other businesses. Going by the submissions where the assessee had shown to have been maintaining his accounts i.e., separate a/cs for each business vertical, it appears that the AO rightly held that the interest claim made in the 'individual a/c' is in no way connected to the business receipts of the assessee as such was already taken into interest attributable to such business consideration in the said P&L a/c

This finding is admitted by the appellant while explaining the 'individual a/c' where in para 7.3 of the submissions/extracted above), it is stated that those assets which do not find a place in the Balance sheet of other businesses would find a place here(.e the, individual a/c). It is that "wherever specifically and categorically admitted by the appellant the loans have been contracted for a-particular business for the specific purpose of that business it will. be included as a liability in the Balance Sheet of that business; else it will be grouped in this (ie., the individual) Balance Sheet". This admission of the assessee that loans obtained for a specific business are accounted for in the respective accounts of that business vertical means that borrowals mentioned in the 'individual account' cannot be attributed to any of such each business verticals. Thus, going by the appellant's own admission and submissions, the AO's inference that interest claimed in the 'individual a/c' does not warrant allowance u/s 36(1)\(ii) of the IT Act is valid and such inference needs no interference in the wake of the facts and circumstances of the case.

Further, the appellant had not made any effort to map each of the borrowals to the specific purpose to evidence its utility in business and Consequently map it to the business receipts to show the business nexus. When the borrowals are not attributable to corresponding business and its utilisation therein, the mere statement of the appellant that loans are all used in business, does not carry weight.

6.5 The decisions relied upon by the appellant are perused with care and the observations are as follows;

In the case of Hotel Savera 239 ITR 795 (Madras), the issue is of disallowance of the interest on the ground that some of the moneys borrowed by the assessee had been utilised for advance of loans to a hotel and on such lending no interest was charged, while the disallowance is deleted upon a finding of fact that the assessee had surplus funds and it could be inferred that the firm made the advance out of its own funds and not the borrowed capital. Hence, the facts are at variance from the case of hand, the decision is not applicable to the instant case.

Even in the case of HDFC Bank Ltd, 49 taxmann.com 335, the facts are that assessee's own funds and other non-interest bearing funds were more than investment in tax free securities, impugned order passed by Assessing Officer disallowing a part of interest payments under section 14A, was ordered to be set aside. Hence, the facts are at variance from the case of hand, the decision is not applicable to the instant case.

The case of Investor Ventures Ltd 431 ITR 221 (Mad) relied upon by the appellant is in respect of section 14A of the IT Act while the issue in the present case is regarding disallowance of interest claimed u/s 36(1)(iii) of the IT Act and so is distinguished.

6.6 In view of the issue discussed thus far and in consonance with the material available on record as well as in due consideration of the submissions made by the appellant, it is held that the AO is right in making the disallowance of interest claimed u/s 36(1)(ii) of the IT Act."

4. Before us, the Id.AR assailing the action of the Id.CIT(A) stated that the order passed by the Id.CIT(A) is erroneous since the submissions made by the assessee for having already disallowed 20% of the interest expenses to the tune of Rs.40,22,423/- has not been considered and the entire interest expenditure debited in his individual profit and loss account as

on 31.01.2016. Before us, the Id.AR filed a paper book consisting of audited financials as on 31.03.2016 for all the business entities owned by him along with his individual financials and also consolidated profit and loss account, balance sheet and other financials of the assessee for the assessment year 2016-17. The Id.AR took us through the Schedules of the consolidated balance sheet in paper book page no. 51 to 57, wherein the assessee had borrowed loans from various financial institutions, banks and other individual parties for the purpose of investment in various business entities owned by him. Some of the loans have been borrowed in his individual names and some have been invested in the business entities as per the requirement of the respective businesses by mortgaging the individual properties to the respective financial institutions/banks. Since, these loans have been borrowed in his individual capacity, the interest expenditure has been debited to his individual profit and loss account without allocating to the respective businesses owned by the assessee. However, the assessee voluntarily disallowed 20% of the interest expenditure of Rs.1,98,34,004/- which has been debited to individual profit and loss account of the assessee.

5. The Id.AR also drew our attention to the separate financials prepared for each of assessee's business entities and shown that the investments are made in the respective businesses by showing the contribution made by the assessee out of the borrowings made in his individual capacity, which is shown in the individual balance sheet prepared as on 31.03.2016. Therefore, the interest claimed as an expenditure u/s. 36(1)(iii) of the Act is in accordance with law and both the lower authorities have erred in disallowing the same without appreciating the fact that the assessee has made investments in different entities owned by him by borrowing from his individual capacity. Therefore, the Id.AR prayed for setting aside the order of the Id.CIT(A) by allowing the assessee's appeal.

6. Per contra, the Id.DR relied on the orders of the Assessing Officer and that of the Id.CIT(A) and asserted the action of the lower authorities in disallowing the interest expenditure since the assessee has not shown any corresponding business income in his individual financials prepared against the interest expenditure made to prove that

the same is towards business activities. Hence, the Id.DR prayed for confirming the orders of the Id.CIT(A).

7. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. It is admitted fact that the assessee is carrying on the business in various business entities apart from having certain income in his individual capacity. The assessee has made investment in following business entities as a partnership concern:

- M/s. A.N. Pappathi Travels & Transport
- M/s. A.N. P. Tyres & Services
- M/s. A.N. Usha Traders
- M/s. Mangalam Agencies Reliance Petrol Bunk
- M/s. Mangalam Pawn Shops
- M/s. Apple Residency
- Mis. Teamwork Media
- Partnership Business
- M/s. R.N.C. Wines Group

Apart from that the assessee has also invested in various private limited companies, which are owned by him towards equity shares as an business expediency for strategic business purpose. According to the Id.AR, certain borrowings from financial institutions and banks and individual parties have been taken by the assessee by providing security of his individual

assets to make an investment in the above business entities owned by him in different names. Therefore, the interest paid on such loans has been recorded in his individual balance sheet and profit and loss account prepared and hence, claimed as expenditure in his individual capacity. However, the same has been consolidated while arriving the entire income for the purpose of computation of total income and taxes thereon as on 31.03.2016. While making computation, the assessee has voluntarily disallowed the expenditure to the tune of Rs.40,22,423/- towards interest expenditure spent for personal purposes along with 10% depreciation on cars towards personal use. We note that the borrowings which are shown in the Schedules of consolidated balance sheet has not been debited during the assessment year 2016-17 and the same has been carried forward from the earlier assessment years and corresponding investments in the business have also been made during the earlier assessment years only. Therefore, considering the facts and circumstances of the case, we are of the opinion that the assessee has recorded and maintained proper books of accounts for each of the business entities along with his individual financials and the claim of interest expenditure is in relation to the multiple businesses carried on

by him. Hence, the disallowance u/s. 36(1)(iii) of the Act made by the Assessing Officer and confirmed by the Id.CIT(A) is not warranted and as the assessee has already disallowed 20% of the interest expenditure debited in his individual profit and loss account to the tune of Rs.40,22,423/- and hence, we set aside the order of the Id.CIT(A) and direct the Assessing Officer to recomputed the income of the assessee by deleting the disallowance of interest of Rs.1,58,67,203/-.

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

Order pronounced in the court on 18th September, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /**Vice President**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य /**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 18th September, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF