

IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI
SHRI B.R. BASKARAN (AM) & SHRI PAVAN KUMAR GADALE (JM)
I.T.A. No. 2585/Mum/2024 (A.Y. 2015-16)

Dhiren Raghavji Bheda T/6, Vaishali Shopping Centre, S.V. Road, Malad (West), Mumbai-400064 PAN : AABPB2863R	Vs.	DCIT-4(1)(1), Aayakar Bhavan, M.K. Road, Churchgate, Mumbai-400020.
(Appellant)		(Respondent)

Assessee by	Shri Ketan L. Vajani, AR.
Department by	Smt. Mahita Nair, Sr. DR
Date of Hearing	03.09.2024
Date of Pronouncement	03.09.2024

ORDER

PER B R BASKARAN, AM:-

The assessee has filed this appeal challenging the order dated 30.03.2024 passed by the Ld. Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre – Delhi [for short ‘the Ld. CIT(A)’] and it relates to Assessment Year (AY) 2015-16. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the addition of Rs. 40,00,000/- made by the Assessing Officer (AO) under section 68 of the Income Tax Act, 1961 (the Act) and also in confirming the disallowance of interest expenditure of Rs.4,80,833/- relating to loan credits disallowed by the AO.

2. The facts relating to the case are stated in brief. The assessee is deriving income by way of income from salary and interest income. During the year under consideration, the assessee has taken loan of Rs. 40,00,000/- from Shri Atul Mawani and Rs.1.00 crore from Shri Vijay Chheda. Since the assessee did not furnish documents to prove the identity and creditworthiness of the creditors and the genuineness of the transactions, the AO assessed the cash credit loan of Rs.1,40,00,000/- as income of the assessee under section 68 of the Act. The assessee had incurred interest expenditure of Rs. 1,07,000/- against the loan taken from Atul Mawani and Rs. 4,20,000/- against loan taken from Vijay Chheda. Besides the above, the assessee had also paid interest of Rs.60,833/- to a person named Kamlesh Madhusudan. The aggregate amount of interest paid was Rs.5,87,833/-, but the AO disallowed a sum of Rs.4,80,883/- only. The AO has not cited any reason as to why he restricted the interest disallowance to Rs.4,80,833/-. It appears that the AO did not disallow interest expenditure of Rs.1,07,000/- relating to the loan taken from Shri Atul Mawani.

3. In the appellate proceedings, the Id. CIT(A) granted relief in respect of loan of Rs. 1,00,00,000/- taken from Vijay Chheda and confirmed balance addition of loan of Rs.40.00 lakhs. The Ld CIT(A) did not discuss anything about interest disallowance. Aggrieved, the assessee has filed this appeal.

4. We have heard the rival contentions and perused the record. The addition of Rs.1.00 crore relating to the loan taken from Shri Vijay Chheda has been deleted by Ld CIT(A). Hence the assessee is in appeal in respect of remaining addition of Rs.40.00 lakhs, being the loan taken from Shri Atul Mawani. In the assessment order, we notice that the AO has observed that the assessee has not furnished any document with regard to the loan taken from Shri Atul Mawani. However, the Id. Authorized Representative (AR) submitted that the assessee has submitted relevant documents to prove the cash credit, but the AO has not taken cognizance of the same. The Id. AR further invited

our attention to the documents available in Paper Book in respect of loan taken from Shri Atul Mawani.

5. As per the AO, the assessee has not furnished these documents, while as per the assessee has furnished them to the AO. Be that as it may, since the AO has not examined these documents, we are of the view that the issue relating to loan of Rs.40.00 lakhs taken from Atul Mawani needs fresh examination at the end of the AO. Accordingly, we set-aside the order passed by the Id. CIT(A) on this issue and restore the same to the file of the AO for examining it afresh in the light of documents produced before us as well as that may be furnished by the assessee.

6. The next issue relates to the disallowance of interest expenses. We noticed earlier that the AO had disallowed interest expenditure of Rs.4,80,833/-, which consisted of interest relating to Shri Vijay Chheda and Rs.60,833/- relating to Shri Kamlesh Madhusudan.. Though the Id CIT(A) deleted the addition of Rs.1.00 crore, being the loan taken from Shri Vijay Chheda, he did not discuss anything about the corresponding interest expenditure. There should not be any dispute that, if the loan is accepted as genuine, then the corresponding interest expenditure needs to be allowed. Accordingly, we direct the AO to allow interest expenditure of Rs.4,20,000/- relating to the loan of Rs.1.00 crores taken from Shri Vijay Chheda.

6.1 The next item of interest is the sum of Rs. 60,833/- paid to a person named Kamlesh Madhusudan. We notice that the AO did not refer to the corresponding loan in the assessment order and did not assess the loan amount. The AO also did not give any reason as to why he has disallowed the sum of Rs.60,833/- paid to Shri Kamlesh Madhusudhan. Hence, we do not find any reason to disallow the above said interest expenditure of Rs.60,833/-. Accordingly, we direct the AO to delete disallowance of this interest expenditure.

7. In the result, the appeal filed by the assessee is treated as allowed.

Order pronounced in the open court on 03.09.2024.

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Sd/-

(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 03/09/2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

BY ORDER,

//True Copy//

SK, Sr.PS

(Assistant Registrar)
ITAT, Mumbai