

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Satbeer Singh Godara, Judicial Member and
Shri Amarjit Singh, Judicial Member

ITA No. 431/Coch/2023
(Assessment Year: 2005-06)

Muthoot Bankers Main Road Quilon 691001 [PAN: AADFM0987H]	vs.	ACIT, Circle - 1 Aayakar Bhavan Karbala Junction Quilon 691101
(Appellant)		(Respondent)

Appellant by:	Shri Sreenivasan, CA
Respondent by:	Smt. V. Swarnalatha, Sr. D.R.

Date of Hearing:	22.08.2024
Date of Pronouncement:	23.10.2024

ORDER

Per Bench

This assessee's appeal for A.Y. 2005-06 arises against the CIT(A)-1, Trivandrum's order dated 19.10.2010 in case no. ITA.No.84/Q/07-08, in proceedings u/s.143(3) of the Income Tax Act, 1961 (the Act).

Heard both the parties. Case file perused.

2. It emerges at the outset that the assessee's sole substantive ground in the instant appeal seeks to reverse both the learned lower authorities action disallowing interest on capital to it's partner(s) of Rs.5 lakh(s) in the course of assessment dated 30.11.2017 and upheld in the lower appellate proceedings as follows :-

“6 The other issue is regarding the claim of interest on capital paid to the partner amounting to Rs.5 lakhs. From the Balance sheet of the firm, I find that the firm comprises of the following partners having the following current account balances:-

<i>1.C. Prabhakaran Nair</i>	<i>160401 Cr</i>
<i>2.K. Jayaprakash</i>	<i>352926 Cr.</i>
<i>3.Mathew M. Thomas</i>	<i>--</i>
<i>4.P.K. Kuriakose</i>	<i>332228 Cr</i>
<i>5.Saramma Thomas</i>	<i>119860 Cr.</i>
<i>6.Thomas George</i>	<i>42557069 Cr.</i>
<i>7.Thomas John</i>	<i>141849087 Cr</i>
<i>8.Thomas Muthoot</i>	<i>3544094 Cr.</i>

When all the partners other than Thomas George are having credit balance in capital/current account, I am not able to reason out why only one partner has been paid interest. The firm has also not produced the copy of partnership deed authorizing the payment of interest. However on verification of the assessment record, from the Assessing officer, I find that the para 5 page 3 of partnership deed dated 1.4.2004 stipulates entitiement of interest @ 12% on all credit balances in the capital account of all the partners. Here only one partner has been paid interest. Hence, I do not find justification in payment of Interest to only one partner when there are credit balances in the capital account of all the partners except one. The appellant has also not produced details to see that the interest paid to the partners is as per the deed and computation thereof. In view of the above, I direct the Assessing Officer to not to allow the claim for interest to partner.”

3. Suffice to say, it has come on record that even the assessee's partnership deed dated 01.04.2009 admittedly provides such an interest payment @ 12% on partners' credit balances. Smt. Swarnalatha strongly argues that the assessee has claimed the impugned interest expenditure only *qua* a single partner than for all of them.

4. We find no merit in the Revenue's sole argument going by the relevant clauses in the assessee's partnership deed providing for such an interest expenditure. We further reiterate that the Revenue has disputed or dismissed the assessee's actual interest payment to its partners. Its instant sole grievance is accepted therefore u/sec.37 of the Act.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 23rd October, 2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Cochin, Dated: 23rd October, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin