

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "SMC" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No. 100/Mum/2024
Assessment Year : 2016-17

Suresh Karsan Satra, 604, Shashi Apartment, Off aarey Road, Goregaon East, Mumbai PAN : AAGPS5694A	vs.	Income Tax Officer, Ward-41(3)(4), Kautilya Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai
(Appellant)		(Respondent)

For Assessee :	Shri Rakesh Joshi,
For Revenue :	Ms. Smitha V. Nair, Addl.CIT

Date of Hearing :	06-11-2024
Date of Pronouncement :	06-11-2024

ORDER

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dated 27-10-2023 passed by Ld CIT(A), NFAC, Delhi and it relates to the Assessment Year (AY.) 2016-17. The assessee is aggrieved by the decision of Ld CIT(A) in partially confirming the addition relating to interest income.

2. We heard the parties and perused the record. The AO noticed that the assessee has borrowed loan and paid interest thereon. He further noticed that the assessee has also advanced interest free loans to certain persons and did not collect any interest. According to the AO,

the assessee should not have given interest free loans when he is paying interest on the loans borrowed by him. The AO identified interest free loans aggregating to Rs.2,80,60,000/- on which the assessee should have collected interest. Accordingly, he computed interest @ 12%, which worked out to Rs.33,67,200/- and added the same to the total income of the assessee. The Ld CIT(A) gave partial relief to the assessee by restricting the addition to 50% of the above said amount. Still aggrieved, the assessee has filed this appeal.

3. The main contention of the assessee is that the interest free funds available with him are more than the amount of interest free advances given by him. Hence, the presumption is that the said loans have been given out of interest free funds only and hence no addition by way of interest income could be made. In support of this proposition, the Ld A.R placed his reliance on the decision rendered by Hon'ble Bombay High Court in the case of PCIT vs. Shapoorji Pallonji & Co Ltd (2020)(117 taxmann.com 625)(Bom). The Ld D.R, on the contrary, supported the order passed by Ld CIT(A).

4. Having heard rival submissions. We are of the view that there is merit in the submissions of the assessee. From the Balance Sheet of the assessee, we notice that the own funds available with the assessee as on 31-03-2016 was Rs.4.87 crores and aggregate amount of interest free funds including the capital of the assessee available as on 31-03-2016 was Rs.6.36 crores. The interest free advances that were considered by AO was Rs.2.80 crores only, while the aggregate amount of interest free advances given by the assessee as on 31-03-2016 was Rs.5.82 crores. Thus, we notice that the interest free funds available with the assessee was more than the interest free advances given and hence no addition on account of notional interest is called for, in view of the binding decision rendered by the Hon'ble Bombay High Court in the case of Shapoorji Pallonji & Co Ltd (supra), wherein it was held as under:-

“7. We have peruse the decision of this Court in Reliance Utilities and Power Ltd (2009)(178 Taxman 135/313 ITR 340) wherein it has been held that if there are funds available with the assessee, both interest free and overdraft and/or loans taken then a presumption would arise that investments would be out of the interest free funds generated or available with the assessee if the interest free funds were sufficient to meet the investments.....

8. We also note that the said decision of this Court has been affirmed by the Supreme Court in CIT vs. Reliance Industries Ltd (2019)(109 taxmann.com 52/261 Taxman 165/410 ITR 466.”

5. In view of the above, the assessee would succeed in his appeal. Accordingly, we set aside the order passed by the Ld CIT(A) and direct the AO to delete the addition of notional interest income.

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

Order pronounced in the open court on 06-11-2024

Sd/-

[RAJ KUMAR CHAUHAN]
JUDICIAL MEMBER

Sd/-

[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai,
Dated: 06-11-2024

TNMM

Copy to :

1.	The Appellant
2.	The Respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "SMC" Bench, Mumbai.
5.	Guard File.

//By Order//

//True Copy //

Dy./Asst. Registrar,
ITAT, Mumbai