IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH MUMBAI

BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.3004/Mum/2024
(**Assessment Year :2018-19**)

Chainroop Surajmal Dugar 1, Paper Box Estate Mahakali Caves Road Andheri East Maharashtra-400 093	Vs.	ITO, Ward 24(1)(1) Mumbai
PAN/GIR No.AGVPD6385Q		
(Appellant)	..	**(Respondent)**

Assessee by	Shri Vimal Punmiya
Revenue by	Shri Krishna Kumar, Sr.DR
Date of Hearing	**28/10/2024**
Date of Pronouncement	**07/11/2024**

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against the order dated 15/05/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) for the A.Y.2018-19.

2. In various grounds of appeal assessee has challenged the addition of Rs.79,39,438/- on account of disallowance of interest paid to various partnership firms.

3. The facts in brief are that assessee is an individual engaged in the business of trading in shares/investment and he was also a partner in various partnership firms. In the revised return assessee has claimed deduction of Rs.79,39,438/- on interest paid to various partnership firms. The ld. AO after noting down income earned by the assessee from various partnership firms and interest expenditure found that assessee has paid interest only to one partnership firm M/s. Mahaveer Fintech of Rs.4,95,578/- and also received interest of Rs.14,21,270/- from another partnership firm Shri Mahaveer Constructions and for other partnership firms assessee has paid interest and no income was received. The assessee's contention was that he has taken loan from one partnership firm and given to other partnership firm towards capital contribution therefore, interest paid on such loan to the partnership firm is an allowable expenditure. However, the ld. AO held that assessee has failed to substantiate the claim and accordingly, disallowed the claim of interest payment of Rs.79,39,438/-.

4. The ld. CIT(A) has confirmed the said addition after observing and holding as under:-

"As seen from the facts of the case, the assessee has claimed interest expenditure of Rs. 78,96,126/- on the borrowed funds in the Profit and Loss Account and further claiming additional deduction of Rs. 95,65,175/-, which is revised to Rs. 79,39,438/- in the revised computation furnished. According to the submissions filed, the assessee has paid this interest to various partnership firms. The assessee has failed to furnish the details of loan borrowed from partnership firm, interest paid and the

application of borrowed funds for earning the taxable income. The expenditure, which is wholly and exclusively relates to the income earned is allowable in computing the taxable income. The AO observed that the assessee has failed to furnish necessary documentary evidences.

7.3 In response to the show cause notice issued by the AO, the assessee has stated that he had paid interest of Rs. 79,39,438/- to the four partnership firms. As the assessee has failed to substantiate that the expenditure incurred is wholly and exclusively relates to the income earned, the AO disallowed the interest expenditure claimed. The AO, further, mentioned that the deduction allowable or allowed in any previous year does not justify the allowability of deduction in succeeding or any other subsequent assessment year.

7.4 During the present appellate proceedings, the assessee contended that the interest paid to various partnership firms was disallowed without appreciating the fact that the loan was borrowed exclusively for the business purpose and without considering the documentary evidence furnished by the assessee. As seen from the Assessment Order, the disallowance of interest was made after considering the reply of the assessee to the show cause notice and the draft assessment order issued by the AO. The Assessing Officer disallowed the interest paid to partnership firms on the ground that the assessee failed to substantiate that the expenditure incurred was wholly and exclusively for the purpose of business of the assessee with the necessary documentary evidence. Further, even during the course of present appellate proceedings, the assessee has failed to rebut the findings of The AO. Therefore, I am of the considered opinion that the AO rightly made the impugned addition of Rs. 79,39,438/- warranting no interference of the appellate authority. Thus, the Ground No. 3 & 4 raised by the assessee on this issue are dismissed."

4. Before us ld. Counsel for the assessee filed detailed statement of capital account with various partnership firms for the relevant

financial year. For the sake of ready reference, the said statement is incorporated hereunder:-

CHAINROOP S DUGAR

F.Y : 2017-18 A.Y : 2018-19

Statement of Capital Account with Partnership Firms for FY 2017-18

Name of The Firm	Opening	Addition	Interest credited	Share of IT Refund	Remuneration	Share of Profit	Total	Withdrawal	Advance Tax	TDS of Firm	Share of Firm Tax	Interest debited	Closing Balance
ANNEXURE A - CREDIT BALANCE WITH PARTNERSHIP FIRMS													
Shree Mahavir Properties	-3,48,35,489	-	-	-	54,60,000	25,46,027	-2,68,29,462	6,31,72,205	-	-	-	42,28,459	**-9,42,30,126**
Shree Mahavir Estate	-2,42,53,434	5,89,50,304	-	-	57,40,000	26,58,376	4,30,95,246	-	-	-	4,67,085	24,20,569	**4,02,07,592**
M/s Shree Mahavir Fintech	-91,49,733	88,04,817	-	-	-	2,07,851	-1,37,065	-	-	-	-	4,95,578	**-6,32,643**
M/s Paper Pack Industries (atgaon)	-59,07,029	1,56,840	-	-	37,500	3,46,435	-53,66,254	-	23,750	44,569	-	7,94,832	**-62,29,405**
M/s Corrugating & Punching Industries	-1,94,670		-	38,621	-	26,374	-1,29,675	-	-	23,518	-	-	**-1,53,193**
Shree Mahavir Developers	-1,18,50,619						-1,18,50,619	6,80,000					**-1,25,30,619**
Total (A)	**-8,61,90,974**	**6,79,11,961**	**-**	**38,621**	**1,12,37,500**	**57,85,063**	**-12,17,829**	**6,38,52,205**	**23,750**	**68,087**	**4,67,085**	**79,39,438**	**-7,35,68,394**
ANNEXURE B - DEBIT BALANCE WITH PARTNERSHIP FIRMS													
M/s Shree Pack Industries (Achad)	88,86,514	1,72,89,500	-	-	1,05,000	11,127	2,62,92,141	10,00,000	-	48,358	-	-	**2,52,43,783**
Shree Mahavir Construction	74,36,792	40,95,270	14,21,270	-	-	-	1,29,53,332	-	-	-	-	-	**1,29,53,332**
Total (B)	**1,63,23,306**	**2,13,84,770**	**14,21,270**	**-**	**1,05,000**	**11,127**	**3,92,45,473**	**10,00,000**	**-**	**48,358**	**-**	**-**	**3,81,97,115**
NET BALANCE (A-B)	**-6,98,67,668**	**8,92,96,731**	**14,21,270**	**38,621**	**1,13,42,500**	**57,96,190**	**3,80,27,644**	**6,48,52,205**	**23,750**	**1,16,445**	**4,67,085**	**79,39,438**	**-3,53,71,279**

5. From the above chart he submitted as under:-

- Interest of Rs. 79,39,438/- is paid by the assessee to the partnership firm in whcich he is also a partner.

- The interest is paid by the partner on the credit balances of the partnership firms with the assessee as can be clearly observed from the opening balances from the annexure A above.

- The interest expenses are done in natural course of assessee's business as assessee is in the business of shares and securities under his proprietary concern and assessee is also a partner in various Partnership firms and earning remuneration and interest from them.

- In can be clearly seen that assessee had made an interest income of Rs.14,21,270/- and received remuneration of Rs.1,13,40,500/- and also earned share of profit firms of Rs.57,96,190/- which totals to Rs.1,85,59,960/-.

- If the said interest expenditure were not made it was not possible to earn the income mentioned above.

- Further it can also be observed that the assessee had withdrawn Rs.6,31,70,205/- from Shree Mahavir Properties and further made the investment as follows :

Shree Mahavir Estate	5,89,50,304
M/s Shree Mahavir Fintech	88,04,817
M/s Paper Pack Industries (atgaon)	1,56,840
M/s Shree Pack Industries (Achad)	1,72,89,500
Shree Mahavir Construction	40,95,270
Total investments out of above and own funds	**8,92,96,731**

6. From the above it can be clearly analysed that the interest expenditure is made towards earning the business income so there is no room left for any addition to be made. Thus, interest paid on loans as well as to the partnership firm is allowable as business deduction as the assessee has taken loan from partnership firm in the business of trading of shares and also for investing in other firms. Thus, deduction should have been allowed. He also pointed out that in the case of Shri Mahavir Properties and Shri Mahavir Estate interest paid by the assessee amounting to Rs.42,28,459/- and Rs.24,20,569/- was allowed as income of the said firm in the scrutiny assessment order passed u/s.143(3). He has also referred to various judgments in written synopsis in support of his contentions.

7. On the other hand ld. DR submitted that nowhere assessee could prove that loan from the partnership firm given to other partnership firm was for the purpose of business and therefore, in the interest paid cannot be allowed u/s.37(1) or 36(i)(iii).

8. We have heard the rival submissions and also perused the relevant finding given in the impugned order as well as material referred to before us. As noted above, assessee was a partner in following partnership firm:-

- Shree Mahavir Properties
- Shree Mahavir Estate
- Shree Mahavir Fintech

- Paper Pack Industries (atgaon)
- Corrugating & Punching Industries
- Shree Mahavir Developers

9. As noted in the table, assessee has received remuneration and share of profits from some of the firms. During the course of hearing we had enquired from the ld. Counsel for the assessee what was the purpose of the loan taken from the various partnership firms to which he clarified that loan taken from the partnership firm has been invested in other partnership firm towards capital contribution because these firms require the funds for the business purpose. Assessee has not given any working loan or term loan to the firms, albeit, it was towards the capital contribution and in support, he has also filed copy of ledger account of capital account for all the firms. From the said ledger account, it is seen that there is addition towards capital contribution and also withdrawals which can be summarized in the following manner:-

Sr. No	Name of The Firm	Addition	Withdrawal	Net
1	Shree Mahavir Properties	4,73,78,967	11,05,51,172	-6,31,72,205
2	Shree Mahavir Estate	10,75,26,063	4,85,75,759	5,89,50,304
3	M/s Shree Mahavir Fintech	90,29,817	2,25,000	88,04,817
4	M/s Paper Pack Industries (atgaon)	3,10,08,731	3,08,51,891	1,56,840
5	M/s Corrugating & Punching Industries	NIL	NIL	NIL
6	Shree Mahavir Developers	50,000	7,30,000	-6,80,000
7	M/s Shree Pack Industries (Achad)	2,38,36,356	65,46,856	1,72,89,500
8	Shree Mahavir Construction	2,39,59,000	1,98,63,730	40,95,270
	Total	**24,27,88,934**	**21,73,44,408**	**2,54,44,526**
	Total **Addition** in the Capital A/cs of The Partnership Firms	24,27,88,934		
	Total **Withdrawal** From Capital A/cs of The Partnership Firms	21,73,44,408		
	Net Addition in the Capital A/cs of The Partnership Firms	**2,54,44,526**		

10. It is further seen that assessee has received sums aggregating to Rs.1,85,59,960/- from various partnership firms as an interest income and remuneration and also share of profit. Further, assessee had withdrawn Rs. 6,31,70,205/- from Shri Mahavir Properties and had made further investment in other partnership firms as noted above. Thus, there is a direct nexus between loan taken from the firm by way of withdrawal and making a capital contribution in the firm from which assessee is earning various sources of income. Apart from that, assessee is also having income in his individual capacity from business of share trading and therefore, the claim of interest on the actual interest paid on the loans taken from firm and utilized for capital contribution is for the purpose of business and therefore, such interest has to be allowed while computing the income of the assessee from business or profession. Accordingly, the payment of interest of Rs. 79,39,438/- is held to be allowable deduction

from the computation of income from business and profession. Accordingly, the ground raised by the assessee is allowed.

11. In the result, appeal of the assessee is allowed.

Order pronounced on 7th November, 2024.

Sd/-	**Sd/-**
(GIRISH AGRAWAL)	**(AMIT SHUKLA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai; Dated 07/11/2024
KARUNA, *sr.ps*

<u>Copy of the Order forwarded to</u> :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai