

**IN THE INCOME-TAX APPELLATE TRIBUNAL “D” BENCH,
MUMBAI**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA 3137/MUM/2024
(A.Y. 2018-19)**

Diksha Rohan Batra, 103, Vinayak Heights, Nargis Dutt Road, Pali Hill, Bandra (West) Mumbai 400050, Maharashtra	v/s. बनाम	Income Tax Officer, Income Tax Department, Centralised Processing Centre, Bengaluru – 560500, Karnataka
स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No: ADTPT9343B		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Suresh Otwani, AR
Respondent by :	Shri R.R. Makwana (Sr. DR)

Date of Hearing	13.11.2024
Date of Pronouncement	22.11.2024

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 23.04.2024 is filed by the assessee against the order passed by the Ld. Commissioner of Income-tax (Appeals)/NFAC, Delhi[hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 154 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 24.01.2020 by the Centralised Processing Centre, Bengaluru for the Assessment Year [A.Y.] 2018-19.

2. The grounds of appeal are as under:

1. *The Appellate Order by FAA is erroneous and incorrect.*
2. *The Ground of Appellant is disallowance of interest paid to creditors on loans for investment from whom money was taken and invested in LLPs, whereas Interest paid to creditors is allowable deduction against interest earned from LLP, but the FAA i.e., CIT(A) has not considered this without citing any reason, he is silent.*
3. The learned CIT(A)/NFAC observed appeal is against the order u/s 154 of the Act, wherein there has been disallowance of Interest paid to Creditors on loans for investment amounting to Rs 46,16,046/- from whom money was taken and invested in LLP's. The relevant part of the appellate order is reproduced as below for the sake of clarity of the whole issue:

The appellant submits as:

Please note our contention is that the Investment in LLP by the Appellant was made by raising loans from creditors from time to time. The Reconciliation and nexus with Bank statement and copy of Accounts of LLP and creditors is compiled in a separate chart which is enclosed herewith. The nexus is proved by the Appellant beyond any doubt. Hence Interest earned from LLP and paid to Creditors is deductible from Interest earning from LLP and hence claimed in the Return of Income which is allowable deduction which is disallowed by the A.O.

On the other hand, the CPC in its order states as:

In case of the assessee for the above assessment year a notice had already been issued proposing to withdraw tax credit given to the assessee earlier at the time of processing the Return u/s.143(1) of the Income Tax Act.

The assessee was given an opportunity to register his/her objection within 15 days of receipt of the notice. However, there is no response from the assessee.



As stated in the above notice, in those cases where tax credits are withdrawn by the deductor, the tax credits which were allowed in the previous Intimation u/s.143(1)/Order u/s. 154 are no longer available to the assessee, due to the fact that the tax deductor of the assessee has subsequently withdrawn the same partially/fully.

Consequently, the Intimation u/s. 143(1) sent to the assessee is rectified hereby u/s.154 by reducing the tax payment credits to the extent they are withdrawn by the assessee's taxes to the extent they are withdrawn by the assessee's tax deductor.

Similarly, in those cases where the assessee has not filled the Tax Payments Schedules in the Return properly, the previous Intimation u/s.143(1)/Order u/s. 154 is rectified by giving credit to the taxes paid only to the extent claimed in the Return.

I have gone through the facts of the case. I find force in the stand taken by the CPC. Since in some case, tax credits were withdrawn by the deductor, the tax credits would no longer be available to the appellant. I refuse to interfere with the order of the CPC.

4. The brief facts of the case are that the Assessee filed Return of Income for AY:2018-19 on 30.10.2018 which was processed u/s 143(1) on 17.02.2019 without any variation of the income disclosed. However, the CPC vide rectification order dated 24.01.2024 made a disallowance of interest paid by the assessee under the head 'Income from Business and Profession' which was determined at Rs 87,19,240/- as against disclosed amount of Rs 41,00,694/- .However, there is no variation in the figures of pre-paid taxes as evident from page 3 of the said order. But reasons for rectification on page-4 of the order refers to withdrawal of TDS credit. These reasons are stated by the ld.AR to be not relevant to the assessee at all and pertain to some other case. It is submitted by the



learned AR that as per Capital account for the year on page-1 of paper book, the assessee paid interest of Rs 46,16,046/- and earned interest of Rs 83,47,249/-.The interest paid was claimed as deductible as per computation of income on page-3 of PB. and this amount was disallowed by CPC in rectification order u/s 154.However,the ld.CIT(A) did not appreciate the issue at all and dismissed the appeal of the assessee on incorrect appreciation of the Remarks made in 154 order which has no relation with the assesses.

4.1 Before us, the learned AR has submitted that the issue regarding setting off of interest was the moot question to be adjudicated which has been completely overlooked by the Ld.CIT(A).It is claimed that the AO wrongly assumed jurisdiction in disallowing the said interest. He has also taken us through the relevant order u/s 154 passed by the CPC dated 24.1.2024 and more specifically the reasons recorded for rectification on page 4 of the order. It is noticed that the reasons pertain to tax credit and not the disallowance of interest. The Ld. Sr. DR could not throw any light on such remarks of CPC which has no correlation with the issue in hand. He referred to possible technical glitch of the system since the order was passed online.

4.2 Considering the above discussion, it is evident that the Ld. CIT(A) has failed to appreciate the crux of the matter in proper



perspective and his decision has no correlation to the grounds of appeal of the assessee. In such a situation, we consider it fit to remand the issue back to the Assessing Officer to consider the grievance of the assessee and decide the matter as per law. Needless to say, he would allow reasonable opportunity of hearing as per the principles of natural justice.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 22/11/2024.

Sd/-

BEENA PILLAI

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य / ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 22.11.2024

Lubhna Shaikh / Steno

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai



5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

