

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.374/Nag./2022
(Assessment Year : 2018-19)

Vaishali Arvind Tayade
Parasparsha Teachers Colony
Rakrushna Vihar, HVPM
Amravati 444 605 PAN – ACLPW8480H

..... Appellant

v/s

Dy. Commissioner of Income Tax
National e-Assessment Centre, Delhi

..... Respondent

Assessee by : Shri Rachit Thakar
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 11/02/2025

Date of Order – 21/03/2025

ORDER

Appeal by the assessee is against the impugned order dated 18/10/2022, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19.

2. The assessee has raised following grounds:-

"1] Learned A.O. erred in disallowing the Interest paid on borrowed capital amounting to Rs.78,540/- and same is confirmed by CIT(A), NFAC, Delhi.

2] Learned A.O. erred in disallowing the deduction claimed by Appellant u/s.80C amounting to Rs.43,770/- and same is confirmed by CIT(A), NFAC, Delhi.

3] Learned CIT(A) erred in not properly consider Appellant's submission and various supporting documents in support of deduction.

4] Appellant craves to urge additional grounds at the time of hearing, if necessary."

3. In this case, the assessee is a Teacher engaged in Brijlal Biyani Science College. For the year under consideration, she filed her return of income electronically on 03/08/2018. Her case was selected for scrutiny through CASS. The Assessing Officer issued statutory notices and in response to which, the assessee furnished reply which was duly perused and considered by the Assessing Officer. According to the Assessing Officer, the assessee received ₹ 6,40,271, as income from salary received from Brijlal Biyani Science College. In her return of income, the assessee claimed following deductions:-

i)	Interest on borrowed capital	₹ 78,540
ii)	Deduction under section 80C (LIC/PF, etc.	₹ 1,50,000

4. The Assessing Officer held that the assessee failed to provide any document in support of her claim of deduction except furnishing of Form no.16, which was issued by her employer wherein GPF/DCPS deduction amounting to ₹ 1,06,230, has been reflected by her employer. Hence the Assessing Officer allowed the deduction claimed by the assessee of ₹ 1,06,230, on the basis of Form no.16 of GPF/DCPS. The balance amount of ₹ 43,770 i.e., ₹ 1,50,000 (-) ₹ 1,06,230 [wrongly mentioned by the Assessing Officer in his assessment order as ₹ 1,50,000 (-) 1,02,230)] being deduction claimed under section 80C (LIC/PPF) was disallowed. The Assessing Officer has also disallowed the interest paid on borrowed capital amounting to ₹

78,540, aggregating to the total disallowance of ₹ 1,22,310. Consequent upon passing of the assessment order by the Assessing Officer, the assessee filed appeal before the first appellate authority.

5. The learned CIT(A) confirmed the assessment order passed by the Assessing Officer by merely holding as under:–

"6.1 I have perused the matter and facts of the case. The emphasis of all three grounds of appeal is that the AO has wrongly disallowed the deductions claimed by the assessee and she prayed to allow the deductions as claimed by her in her ITR. On perusal of housing loan interest certificate produced by the assessee, it can be clearly seen that the loan was taken by Sh. Arvind Arjun Rao Tayade (husband of the assessee). The assessee has not produced any document which shows that the loan was taken by her or re-payment of the loan was being done by her. In absence of any such document, assessee is not eligible for deduction of interest paid on borrowed capital (interest on home loan). In addition the averred deduction is available on income from house property. It is allowable as a deduction while computing income from house property. In the absence of any such disclosure by the assessee no grounds for claims are made out. She couldn't have done the same owing further to the following:

- 1. She is not the acquirer of the property and no evidence has been furnished to take any alternate view.*
- 2. The loan taker, as per the interest certificate, is clearly her husband.*
- 3. There is no evidence either of the house purchase/construction being completed within five years from the end of the financial year in which capital was borrowed.*

6.2 Assessee also claimed Rs. 1,50,000/- as deduction u/s 80C in her ITR. During assessment proceedings, the AO has allowed only Rs. 1,06,230/- which was GPF/DCPS deducted by the employer. Rest Rs. 43,770/- (Rs. 1,50,000-Rs. 1,06,230) was disallowed by AO as assessee didn't produce any documentary proof for the same. During appellate proceedings also, opportunity was provided to the assessee for furnishing documentary proof. Assessee in her reply merely stated that she had paid premium of LIC of Rs. 27,996/- and rest of the amount i.e Rs.15,774/- can be considered from the principal part of the home loan paid by the assessee but didn't produce any documentary proof of the LIC premium paid by her. It has already been discussed how on perusal of interest certificate, the loan was taken by the husband of the assessee. Hence, in absence of corroborative evidences the assessee is not eligible for any deduction.

7. In light of the above facts, the disallowance made by the AO vide assessment order u/s 143(3) is correct and the appeal of the assessee is dismissed."

The assessee being aggrieved is in further appeal before the Tribunal.

6. Before us, the learned Authorised Representative for the assessee furnished written submissions which read as under:–

"1] The abovereferred Appellant filed her I.T. Return on 03.08.2018 for A.Y.2018-19. The Appellant is an employee in Brijlal Biyani Science College and received a Salary of Rs.6,40,271/- for F.Y.2017-18. The Appellant claimed following deductions.

1) Interest paid on borrowed capital	Rs. 78,540/-
2) Deduction u/s.80C (LIC, PPF etc.)	Rs.1,50,000/-

The Learned A.O. did not allow the deduction as claimed by the Appellant on the ground that the Appellant did not provide adequate documents in support of her claim. The A.O. allowed deduction of Rs.1,06,230/- on the basis of Form No.16 of GPF/DCPS. The balance amount of Rs.43,770/-(150000 106230) (but wrongly mentioned as (150000-102230 in the Assessment Order) being deduction u/s.80C (LIC/PPF etc.) was not allowed. Furthermore, A.O. also disallowed the interest paid on borrowed capital, amounting to Rs.78,540/-. Hence, bringing the total disallowance at Rs.1,22,310/-.

2] The Appellant does not accept the same. The Appellant has been filing her I.T. Return regularly since a long time and she has shown her income truly and correctly every single time. Merely on the ground that the Appellant did not file some proof of deduction at the time of Assessment Proceeding is not proper and bad in law. The Appellant is also filing herewith the LIC Policy document/LIC Payment Receipt along with other documents and Form 16 for your reference.

The Appellant is also filing this reply for the sake of penalty proceeding u/s.270A of the Act. The learned A.O. did not consider all this details before him. For your ready reference, we are enclosing herewith our various Written Submissions made before the Ld. A.O. on 15.08.2021, 04.02.2021, 04.02.2021, 16.09.2021, 06.03.2021 and 04.02.2021, wherein the Appellant has squarely explained why the tax liability as well as penalty shall not be attracted. There is no under reporting or misreporting by the Appellant and the A.O. as simply made the above addition without application of mind and considering material on record. Hence we request you to kindly consider the Appellant's various Written Submissions and relevant documents in support of her claim and kindly allowed the Captioned Appeals and thus accept the income shown by the Appellant in ROI and delete the penalty amounting to 25,195/- or 200% of the tax payable u/s.270A of the Act. There is no malafied

intention of the Appellant for claiming the said deduction. The deduction claimed by the Appellant is genuine, true and correct."

The learned Authorised Representative for the assessee thus prayed that the additions be deleted.

7. The learned Departmental Representative relied on the order passed by the authorities below.

8. I have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. The fact is, Shri Arvind Arjunrao Tayade, is the husband of the assessee and the assessee along with her husband, jointly acquired the property and paid interest on borrowed capital. However, the Bank has issued a certificate, a copy of which is available on record, mentioned the name of husband only. The Department, on the basis of this certificate, under presumption, held that the assessee has not paid interest on borrowed capital rather the said interest was paid by her husband Shri Arvind Arjunrao Tayade, and made addition, which, in our considered opinion, is incorrect action by the Department. Thus, the addition made by the Assessing Officer is treated as unjustified. Consequently, I hold that the assessee has paid interest on borrowed capital of ₹ 78,540, and direct the Assessing Officer to delete the addition. Accordingly, on this issue, we set aside the impugned order passed by the learned CIT(A) by allowing ground no.1, raised by the assessee and direct the Assessing Officer to allow the claim of the assessee on account of interest paid on borrowed capital of ₹ 78,540.

9. Insofar as ground no.2, which relates to deduction claimed by the assessee under section 80C (LIC/PF, etc.) is concerned, I find no ambiguity in claiming deduction under section 80C (LIC/PF, etc.). It is mandatory for an employee, presently in case of the assessee, who is a Teacher in College, to get subscription of P.F. deducted from her monthly salary which in turn the employer is required to deposit in Govt. Account. Even though, as stated by the Assessing Officer and the learned CIT(A), no documentary evidence has been adduced by the assessee, however, we hold that the assessee has paid monthly subscription which was deducted from her pay by the employer. There cannot be any ambiguity in making investment in LIC by the assessee. I find no cogent reason to disturb the impugned order passed by the learned CIT(A) on this issue which is hereby set aside by directing the Assessing Officer to delete this addition and allow the deduction claimed by the assessee under section 80C (LIC/PF, etc.) of ₹ 1,50,000 in full. Thus, ground no.2, raised by the assessee is also allowed.

10. Grounds no.3 and 4, being general in nature, no separate adjudication is required.

11. In the result, assessee's appeal stands allowed.

Order pronounced in the open Court on 21/03/2025

NAGPUR, DATED: 21/03/2025

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur