

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD

BEFORE S/SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.470/Ahd/2025
Asstt.Year : 2017-18

Shree Samprat Coop HSG Society Ltd. Nr.Satyarah Chhavani Opp: Parivar Society Prem Chandnagar Road Ahmedabad. PAN : AAEAS 8064 M	Vs	The Income Tax Officer Ward-3(3)(5) Ahmedabad.
---	----	---

(Applicant)		(Responent)
--------------------	--	--------------------

Assessee by :	Shri Prashant Shrivastav, AR
Revenue by :	Ms.Bhavnasingsh Gupta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 30/04/2025
घोषणा की तारीख /Date of Pronouncement: 01 /05/2025

आदेश/O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

This appeal by the assessee is directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-3, Ahmedabad [hereinafter referred to as "CIT(A)"], dated 15.01.2025, for the assessment year 2017-18, confirming the disallowance of deduction of Rs.12,95,860/- claimed by the assessee under section 57 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"] arising out of the order dated 20.11.2019 passed by the Income Tax Officer, Ward 3(3)(5),

Ahmedabad [hereinafter referred to as “Assessing Officer”] under section 143(3) of the Act

2. Facts of the Case

The assessee is a co-operative housing society registered under the Gujarat Co-operative Societies Act,1961. It filed its return of income for A.Y. 2017–18 on 03.11.2017 declaring total income at Rs.Nil. The case was selected for scrutiny and notice under section 143(2) followed by notice under section 142(1) was issued. However, despite repeated notices and reminders, there was minimal compliance by the assessee during assessment proceedings. From the Income and Expenditure Account, the Assessing Officer observed that the assessee had received interest income of Rs.12,95,860/- on fixed deposits made with banks, which was offered under the head "Income from Other Sources". The assessee claimed deduction of Rs.38,15,283/- under section 57, comprising various maintenance and administrative expenses. The AO held that no expenditure was incurred wholly and exclusively for the purpose of earning the said interest income. It was further held that the interest income earned on deposits with banks does not fall within the principle of mutuality, relying on the judgment of the Hon'ble Supreme Court in Bangalore Club v. CIT [(2013) 350 ITR 509 (SC)] and Totgars Co-operative Sale Society Ltd. v. ITO [(2010) 322 ITR 283 (SC)]. Accordingly, the AO disallowed the deduction of Rs. 12,95,860/- and assessed the same as taxable income.

3. The assessee challenged the assessment before the learned CIT(A) by filing appeal. However, the CIT(A) recorded that despite issuance of multiple notices dated 08.01.2021, 27.12.2024, and 07.01.2025 fixing hearings on 08.02.2021, 03.01.2025, and 13.01.2025 respectively, there was no compliance by the assessee. As a result, the appeal was decided ex parte and dismissed, observing that the assessee had not prosecuted the appeal and failed to submit any evidence or arguments in support of the grounds raised. The CIT(A) accordingly upheld the disallowance made by the Assessing Officer.

4. Aggrieved by the order of CIT(A) the assessee is in appeal before us raising following grounds:

a. The Ld. CIT(A) erred in confirming the order of the AO making disallowance of claim of expenses u/s 57 to the extent of Rs.12,95,860/-.

b. Any other ground which may be urged before or during the time of hearing of the appeal.

5. During the course of hearing before us, the learned Authorised Representative (AR) submitted that the order passed by the CIT(A) is ex parte and has not dealt with the merits of the case. It was submitted that the notices issued during the appellate proceedings were not received by the assessee directly but were sent to the accountant's email address mentioned in Form No. 35. Due to this lapse, the assessee could not make effective representation before the CIT(A). The learned AR submitted that the assessee has now compiled all necessary documents and is willing to pursue the appeal diligently if one

more opportunity is granted. It was further submitted that the issue regarding allowability of expenditure under section 57(iii) against interest income has been decided in favour of assessee by various benches of the Tribunal. The paper book filed by the assessee includes registration details of the society, audited financials, income computation, and extracts of judicial precedents.

The Departmental Representative raised no objection in restoring the matter back to the file of CIT(A).

6. We have carefully considered the rival submissions, the material available on record. It is evident that the CIT(A) has passed the impugned order without adjudicating the appeal on merits. The order merely records non-compliance and proceeds to dismiss the appeal without analysing the facts or legal grounds. In our view, the interest of natural justice demands that the assessee be granted an opportunity to substantiate its claim before the CIT(A), particularly in light of the plea that non-compliance was due to communication lapses, and the assessee has now taken steps to furnish relevant documents and case law support.

7. In such circumstances, without going in the merits of the case, we deem it appropriate to restore the matter back to the file of the CIT(A) for fresh adjudication on merits. The assessee is directed to appear before the CIT(A) and file all relevant submissions in support of its claim. The learned CIT(A) shall

grant a reasonable opportunity of being heard and shall pass a speaking order in accordance with law.

8. In view of the above discussion, the order of the CIT(A) is set aside, and the matter is restored to his file for fresh adjudication in accordance with law.

9. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 1st May, 2025 at Ahmedabad.

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

Ahmedabad, dated 01/05/2025

vk*