

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:2728/Chny/2024
निर्धारण वर्ष / Assessment Year: 2020-21

Praveen Kumar G Jain, No.52, Near Select Theatre, Nattupillaiyar Koil Street, Sowcarpet, Chennai – 600 079.	vs.	Asst. Commissioner of Income Tax, Central Circle -3(2), Chennai – 600 034.
[PAN:AEAPP-4675-C] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. D. Anand, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri. R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing : 07.04.2025
घोषणा की तारीख/Date of Pronouncement : 03.06.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), Chennai, for the assessment year 2020-21, vide order dated 30.08.2024.

2. The assessee has raised the following grounds of appeal:-

1. *The order of the learned Commissioner Of Income Tax (Appeals)-20, is wrong, illegal and is opposed to law.*
2. *The Ld. Commissioner of Income Tax (Appeals)-20 erred in upholding the order of assessment which is based only on suspicion and surmise and not based on any material evidence.*

3. *The learned CIT(A) ought to have seen that no incriminating material has been found/ discovered during the Search and Seizure operations and therefore the impugned disallowance made by the assessing officer and sustained by the learned CIT(A) are bereft of jurisdiction and bad in law.*
4. *The learned CIT(A) ought to have seen that the impugned disallowance made by the Ld. A.O and sustained by the Ld.CIT(A) are bereft of jurisdiction and bad in law, since no incriminating material has been found/ discovered during the course of the Search and Seizure operations which is the basic requirement for making addition in proceedings initiated under section 153A.*
5. *The learned CIT (A) ought to have seen that although Section 153A does not say that additions should be strictly made on the basis of evidence found in the course of the search it does not mean that the assessment can be arbitrary made without any relevance or nexus with the seized material, obviously meaning that an assessment under section 153A has to be made only on the basis of seized material.*
6. *The Ld.CIT(A) has wrongly sustained the impugned disallowance of interest claimed on borrowed capital made u/s 24(b) in an unwarranted, whimsical and arbitrary manner, purely on the basis of surmises and conjectures.*
7. *The learned CIT(A) ought to have seen that the impugned disallowance made in assessment order is made only on the basis of suspicion and surmise. Suspicion however strong cannot take the place of evidence.*
8. *The learned CIT(A) has wrongly sustained the impugned disallowance of interest claimed on borrowed capital made u/ s 24(b) solely on suspicion, surmises and conjures without considering the fact that the entire transaction is supported by proper documentary material/ evidence(s).*
9. *The learned CIT(A) erred in sustaining the differential gross receipt of income declared under section 139(5) and income declared under presumptive basis while filing returns under section 139(1) and under the head "other sources" as income of the appellant.*

10. The learned CIT(A) erred in sustaining the disallowance of expenses claimed by the appellant under section 57(iii) of the Income Tax Act which was incurred for the purpose of earning income from other sources.

For these and other grounds that may be rendered at the time of hearing it is most humbly prayed that the Hon'ble Tribunal may be pleased to allow the appellants appeal and thus render justice.

3. The brief facts of the case are that the assessee is an individual engaged in the business of wholesale and retail trade of cosmetics and perfumes under the name and style of M/s.Cash and Carry. For the Assessment Year (AY) 2020-21 the assessee filed his return of income on 10.01.2021 u/s.139 of the Income Tax Act, 1961 (the Act) admitting total income of Rs.4,15,890/- and subsequently filed return of income u/s.139(5) of the Act on 30.03.2021 declaring a total income of Rs.1,88,540/-. A search and seizure operation u/s. 132 of the Income Tax Act, 1961 was conducted on the assessee's residential-cum-business premises on 16.03.2021. Pursuant to the said search, a notice u/s.153A of the Act was issued to the assessee on 11.12.2021, requiring the assessee to file a return of income for six assessment years preceding the year of search, including Assessment Year 2020-21.

4. In compliance with the said notice, the assessee filed his return of income belatedly u/s.153A on 03.03.2022, declaring total income at Rs.14,38,540/-. Thereafter, the AO issued notice u/s.143(2) dated 26.03.2022. The AO thereafter passed assessment order u/s.153A r.w.s.143(3) on 31.03.2022, determining the total income of the assessee at Rs.24,41,140/- and in doing so the AO disallowed the claim of interest on borrowed capital of Rs.5,04,244/- on the ground that the assessee had failed to furnish evidence to substantiate that the borrowed funds were utilised for the construction of house property. Apart from that the AO has made

addition of Rs.3,36,365/- towards differential interest shown in the original and revised return and disallowed the interest deduction claimed of Rs.1,61,986/- u/s.57 of the Act, since the assessee has not filed any reply to show cause notice.

5. Aggrieved by the order passed by the AO, the assessee preferred an appeal before the Id.Commissioner of Income Tax (Appeals)-18 (Id.CIT(A)). Before the First Appellate Authority, the assessee submitted the details of partywise loan amounts borrowed. However, the assessee had not filed any fund flow statement or its utilisation for house property construction. Similarly, in respect of interest additions made and disallowance of the interest deduction claimed u/s.57 of the Act, the assessee had not filed any explanation or evidence to prove the genuineness of expenditure. Therefore, the Id.CIT(A) confirmed the order of the AO by passing an order dated 30.08.2024.

6. The Id.AR for the assessee relied on the grounds of appeal filed by the assessee and argued that the assessee has already submitted the details of the loans borrowed. Further, the Id.AR stated that the assessee has been declaring rental income regularly and hence there is no reason to doubt the genuineness of the investment in house property. Further, the revised return was filed by the assessee by declaring a correct income of interest earned and spent.

7. In the above circumstance the Id.AR prayed that the additions made in the assessment order for A.Y. 2020-21 u/s.153A of the Act be deleted in full.

8. Per contra the Id.DR argued that the assessee has not filed any details or evidence in support of the claim of the interest on loans borrowed and claimed under the head income from house property. Further, there is no details available for filing

the revised return of income by reducing the income declared under the head income from other sources. Therefore, Id.DR stated that there is no infirmity in the order of the Id.CIT(A) and prayed for confirming the same.

9. We have heard the rival contentions perused the material available on record and gone through the orders of the authorities along with submissions and case laws relied upon by both the parties. The assessee has filed his return of income u/s.139(1) of the Act and subsequently revised the same after the search operations u/s.132 of the Act, by reducing the total income to Rs.1,88,540/-. The assessee filed his return of income pursuant to notice u/s.153A of the Act by declaring an additional income of Rs.12,50,000/- as agreed during the search proceedings.

10. However, the assessee has not furnished any evidence or supporting documents for claiming the interest on borrowed funds under the head income from house property and also towards interest expenses and income under the head income from other Sources. Therefore, the AO has made an addition on account of interest on borrowed capital for want of evidence along with interest income and expenses shown under the head income from other sources, which was confirmed by the Id.CIT(A).

11. We note that the Id.AR for the assessee has not furnished any further details or documents before us also. On perusal of the order of Id.CIT(A), we find that the interest on borrowed capital has been claimed and the assessee has not furnished any of the details of borrowings and also utilisation of funds in para No.7.11 of the order. Further, it is also noted that the assessee has failed to explain why gross receipts from income from other sources are reduced from Rs.6,96,213/- in original

return to Rs.3,59,498/- in return u/s.153A along with the claim of interest u/s.57 of the Act to the tune of Rs.1,61,986/- in para No.7.7 of the order.

12. In light of the above facts and circumstances, we do not find any infirmity in the order of the Id.CIT(A) and the assessee also has not brought out before us, any further evidence in support of his claim, we are inclined to dismiss the appeal of the assessee by confirming the order of the AO.

13. In the result the appeal of the assessee is dismissed.

Order pronounced in the open court on 03rd June, 2025 at Chennai.

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 03rd June, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF