

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH: BANGALORE**

**BEFORE Dr. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1365/Bang/2025
Assessment Year: 2015-16

Bhagya Mahantesh Khodanpur, Indu Arcade, Vithoba Galli, Durgadbail, Hubballi-580020. PAN NO : APXPK0150P	Vs.	Income Tax Officer, Ward-2(1), Hubballi.
APPELLANT		RESPONDENT

Appellant by	:	Sri Sudheendra B.R, Advocate
Respondent by	:	Sri Ganesh R Ghale, Advocate-Standing Counsel for Revenue

Date of Hearing	:	20.08.2025
Date of Pronouncement	:	21.08.2025

O R D E R

PER Dr. DIPAK P. RIPOTE, ACCOUNTANT MEMBER:

This is an appeal filed by Bhagya Mahantesh Khodanpur against the order of the Learned Commissioner of Income Tax (Appeals) (NFAC) (in short "Ld. CIT(A)") passed U/s. 250 of the Income Tax Act, 1961 (in short "the Act") for Asst Year 2015-16 on 28/03/2025 emanating from Assessment Order dated 29/12/2017 passed U/s. 143(3) of the Act.

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

"1. The order passed by the Ld. Addl / Joint Commissioner of Income Tax (Appeals)-2, Gurugram U/s. 250 of the Act dated 28/03/2025 is bad in law and liable to be quashed.

*2. **Addition of Rs. 4,42,500/- is bad in law and liable to be deleted.***

2.1 *The Ld. AO erred in disallowing interest paid to KSFC amounting to Rs. 4,42,492/- and the Ad. CIT(A) erred in confirming the said disallowance.*

2.2. *The Ld. AO and the Ad. CIT(A) erred in not appreciating that the loan taken from KSFC amounting to Rs. 30.82 lakhs was utilized for construction of Industrial godown and consequently the interest paid to KSFC amounting to Rs. 4,42,292/- is eligible for deduction U/s. 24(b) in computing the income under the head "income from house property".*

2.3. *The reasons of the Ld. AO and Ad. CIT(A) disallowing the deduction of Rs. 4,42,492/- is contrary to facts, bad in law and liable to be quashed.*

2.4. *On the facts and circumstances of the case and law applicable, interest paid to KSFC amounting to Rs. 4,42,492/- should be allowed as deduction in computing the income under the head 'income from house property'.*

3. **Levy of interest U/s. 234A, 234B and 234C**

3.1. *The levy of interest U/s. 234A and 234B is also bad in law and liable to be deleted. On facts and circumstances and law applicable, interest U/s. 234A and 234B and 234C of the Act is not leviable. The appellant denies its liability to pay interest U/s. 234A 234B and 234C.*

4. **Prayer**

4.1. *In view of the above and other grounds to be adduced at the time of hearing, the appellant prays that the impugned assessment order U/s. 143(3) and the appellate order U/s. 250 be quashed or in the alternative the impugned addition of Rs. 4,42,492/- be deleted."*

3. **Submissions of the Ld. AR:**

The Ld. AR filed a paper book containing 118 pages. The Ld AR submitted that the Assessing Officer had not allowed deduction of 'interest income' from 'income from house property'. The assessee has shown rental income. During the year, the assessee had also claimed deduction of interest income from income from house property. The Assessing Officer has not considered the assessee's submission and disallowed the assessee's claim for deduction of

interest income of Rs. 4,42,500/-. The Ld. AR submitted that for the Asst. Year 2016-17 in the assessee's own case, the Ld. CIT(A) has allowed the interest income as deduction with reference to the same rental income. Therefore, the Assessing Officer has to follow the consistency. In this case, the assessee had borrowed funds from Karnataka State Finance Corporation (KSFC). The Assessing Officer in the assessment order has disallowed the interest expenses of Rs. 4,42,492/- only because according to the Assessing Officer interest Certificate has not been filed and KSFC had not given loan for construction of godown. The Ld. AR invited our attention to pages 71 to 72 from the paper book which is a letter written by KSFC to the Assessing Officer in response to letter of the ITO U/s. 133(6) of the Act. The said letter mentions that loan was sanctioned against the property bearing Plot No.55-B, Tarihal Industrial Area. Thus, the Ld. AR submitted that the Assessing Officer directly collected the information from KSFC which explains the interest paid by the assessee. Therefore, the addition made by the Ld. AO needs to be deleted. The Ld. AR relied on the decision of the ITAT, Mumbai Bench in the case of J.F. Laboratories Ltd vs. ITO, Ward-5(2)(2) reported in [2005] 96 ITD 448 (Mum.).

4. **Submission of the Ld. DR:**

The Ld. DR submitted that the assessee had not provided bills or other documents to substantiate that the loan was used for construction of the godown. The Ld. DR also submitted that the

loan was granted by KSFC for starting the business. Therefore, the interest amount should be capitalized and hence denial of deduction by the Assessing Officer is correct. The Ld. DR took us through the relevant para of assessment order and the CIT(A)'s order.

5. **Findings and Analysis:**

We have heard both the parties and perused the records. In this case, the assessee had filed return of income for Asst. Year 2015-16 on 19/08/2016 declaring a total income of Rs. 1,59,740/-. The assessee's case was selected for scrutiny. In the return of income, the assessee claimed interest expenses of Rs. 4,42,492/- against the interest income earned of Rs. 1,075/-. Thus, in the original return of income, the assessee had shown income from other sources at Rs. (-) 4,41,417/-. On a specific query by the Assessing Officer, the assessee submitted that the assessee had paid interest to KSFC towards the amount sanctioned as loan by KSFC which was utilized by the assessee for construction of godown. The assessee also submitted that these godowns have been given on rent and rent has been offered for taxation. But, inadvertently the interest amount paid was claimed under the head 'income from other sources' instead of 'income from house property'. During the assessment proceedings, the assessee filed revised computation of income claiming deduction of interest income under the head 'income from house property'. The assessee

also filed revised return of income during the assessment proceedings and claimed interest income of Rs. 4,42,492/- as deduction under the head 'income from house property'. The revised return of income has shown computation of income as under:

Corrected return filed as under:	Rs.	Rs.
Income from house property	6,15,000	
Less Interest paid to KSFC	(-) 4,42,492	1,72,808
Income from business		27,100
Income from other sources		
Bank interest		1,075
	GTI	2,00,983
Less: deduction U/s. 80C		41,239
	Returned	1,59,740
	income	

6. The Assessing Officer rejected the assessee's claim stating that KSFC had given the loan to the assessee to set-up Steel Fabrication Unit. According to the Assessing Officer, the assessee has utilized this amount for construction of godown which was not permissible. The Assessing Officer also mentioned in the assessment order that the assessee has not filed any Certificate from KSFC regarding the interest.

7. However, it is observed that the assessee had constructed godowns by utilizing the borrowed funds borrowed from KSFC. It is also a fact that the assessee has earned rental income from the said godowns. In come the computation of income and balance sheet for FY 2013-14 has shown as under:

Tarihal Industrial Estate	10,33,134
ADD Interest	1,93,696
ADD Current year	30,65,376

	42,92,206
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8. Thus, for FY 2013-14 the assessee has capitalized interest. However, since in AY 2015-16 the assessee has earned rental income from godowns constructed by utilizing the borrowed funds, the assessee has claimed interest expenses of Rs. 4,42,492/- as deduction from income from house property. It is also observed from pages 71 & 72 of the paper book that KSFC has certified the amount of interest paid by assessee on account of loan. It is observed that the said Certificate was available with the Assessing Officer on 24/10/2017 ie., during the assessment proceedings.

9. Admittedly, the assessee has utilized the loan amount for construction of godown and godowns have been given on rent. These facts have not been doubted by the Assessing Officer or the Ld. CIT (A). Once it is established that godowns have been constructed with the borrowed funds, interest paid on the said borrowed funds will be eligible for deduction under the head income from house property. Section 24(b) of the Income Tax Act, 1961 is reproduced as under:

“24. Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:—

(a)

(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

10. Thus, section 24(b) clearly states that where the property has been acquired or constructed with borrowed capital, the amount of

any interest payable on such capital shall be allowed as deduction. It is also noted that the Assessing Officer has directly received interest Certificate from KSFC. It is also observed that identical addition was made by the Assessing Officer for AY 2016-17. However, the Ld. CIT(A) has deleted the said addition for AY 2016-17, accepting the contention of the assessee. The order passed by the Ld. CIT(A) for AY 2016-17 is at page 111 to 117 of the paper book. Relevant para of the CIT(A)'s order for AY 2016-17 is reproduced as under:

“6.2.4. From the submissions of the appellant it is seen that the Godown was constructed with the funds received from KSFC. The Assessee cancelled the plant of starting the manufacturing mineral powder and letout the major portion of the building constructed on lease from 01-01-2014.

In my considered view, the assessee can claim interest paid on borrowed capital for the purpose of construction of building U/s. 24(b) of the Act, against rental income while computing income from house property. In this case, since the assessee has let out the godown from 1/1/2014 onwards, and the loan was utilized for the construction of the godown, it has rightly claimed interest paid on borrowed capital U/s. 24(b) of the Act. The Ld. AO although, accepted the fact that the assessee has borrowed loan from bank for the purpose of construction of building and also that the said building has been let out disallowed of interest on the grounds that it was an industrial loan. Therefore, I am of the view that the Ld. AO has erred in disallowing interest claimed towards borrowed capital U/s. 24(b) of the Act. Ld. AO is directed to allow deduction claimed towards interest paid on loan borrowed from KSFC U/s. 24(b) of the Act of Rs. 2,99,617/-.”

11. In these facts and circumstances of the case, we direct the Ld. AO to allow deduction of interest paid to KSFC U/s. 24(b) of the Act. Thus, Ground No. 2 of the assessee is allowed.

12. Ground No.3 is related to interest U/s. 234A, 234B and 234C of the Act which is consequential in nature and hence it becomes academic.

13. Ground No.4 is general in nature and therefore needs no adjudication.

14. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 21st August, 2025

Sd/-
(Prakash Chand Yadav)
Judicial Member

Sd/-
(Dr. Dipak P. Ripote)
Accountant Member

Bangalore,
Dated 21st August, 2025.
OKK/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.