



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.142/RJT/2023
निर्धारणवर्ष /Assessment Year: 2018-19

Jagdishbhai Gordhanbhai Dobariya "Ramdev"2, Jivnath Park,B/h. Panchvati Hall,Panchvati Main Road,Nr.Gandhi School,Rajkot 360 001 PAN : ABRPD8654R	बनाम Vs.	The Pr.CIT-1 Aayakar Bhavan, Race Course Ring Road, Rajkot.
(अपीलार्थी/assessee)	:	(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Rajendra Singhal, Id.AR
राजस्व की ओर से/Revenue by : Shri Sanjay Punglia, Id.CIT-DR

सुनवाई की तारीख/Date of Hearing : 09/06/2025
घोषणा की तारीख/Date of Pronouncement : 29/08/2025

ORDER

Per, Dr. Arjun Lal Saini, Accountant Member:

By way of this appeal, the assessee has challenged the correctness of the order dated 26.03.2023 passed by the Learned Principal Commissioner of Income-tax (in short "Ld. PCIT") under section 263 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), for the assessment year 2018-19. Grievances raised by the assessee, which, being interconnected, will be taken up together, are as follows:

"1.The order passed by Pr. Commissioner of Income-tax, Rajkot-1 [hereinafter referred as to the "PCIT] is bad in law, invalid, and therefore, the same may kindly be



quashed as the relevant assessment order was not erroneous as well as prejudicial to the interest of the revenue.

2.The Id. PCIT erred on facts as also in law in setting aside the assessment order dated 20.02.2021 passed u/s 143(3) r.w.s 143(3A) & 143(3B) of the I.T.Act, invoking clause (a) of Explanation 2 to section 263 of the Act.

3.The Ld. PCIT erred in law and on fact in arriving at a conclusion to the effect that the assessment order passed by the AO was erroneous as well as prejudicial to the interest of the revenue on the ground that an excessive deduction u/s 57(iii) of the Income Tax Act for interest expenditure has been allowed to me.

4.The Id. PCIT erred on facts as also in law in setting aside the assessment order dated 20.02.2021 passed u/s 143(3) r.w.s 143(3A) & 143(3B) of the I.T. Act and directing the AO to pass a fresh assessment on the issue related to deduction u/s 57(iii) of the Act.

5.The grounds of appeal mentioned hereunder are without prejudice to one another. As appeal is against the validity of revisional jurisdiction of Pr. CIT.

6.Your Honor's appellant craves leave to add, to amend, alter, or withdraw any one or more grounds of appeal on/or before hearing of appeal."

2. Succinctly, the factual panorama of the case is that assessee before us is an Individual.The Assessee had filed return of income for assessment year (AY) 2018-19, on 17/11/2018, declaring total income at Rs.52,45,180/-. The Assessment was finalised u/s 143(3) of the Act, on 24.03.2021, determining total assessed income at Rs.5,13,710/-.

3. Later on, the Learned Principal Commissioner of Income-tax (in short "Ld PCIT"), exercised his jurisdiction under section 263 of the Income-tax Act, 1961. On verification of case records, it was found by Id PCIT that the assessee has received interest from J. P. Structure Pvt Ltd, in which the assessee is one of the director and has earned interest @ 6% amounting to Rs.1,10,83,730/-. The assessee has taken unsecured loan from various persons, as per annexure -11 and the assessee has paid interest ranging from 6% to 18%. It is a settled legal proposition that when the claim of deduction is made, the onus is on the assessee to demonstrate the genuineness of such claim. As assessee has claimed excessive



interest expenses, therefore, the notice u/s.263 of the Act was issued by the Id.PCIT, vide letter dated 11.01.2023, which is reproduced by the Id.Pr.CIT, in his order, vide page no.2 to 4 of the Revision Order, under section 263 of the Act.

4. In response to the notice of the Id.Pr.CIT, the assessee submitted its reply before the Id.Pr.CIT. The assessee submitted that he had taken loans from various parties in the earlier years as well as during the year under consideration, for the purpose of making investment in form of loans in his company M/s JP Structures Pvt. Ltd., where assessee is shareholder and director. During the year under consideration, assessee had received total interest of Rs. 1,10,83,730/- from loan advanced to M/s JP Structures Pvt. Ltd. The loan given to M/s JP Structures Pvt Ltd was funded from assessee`s own capital, interest free loans as well as some loans taken from various parties on which assessee had to pay interest. Thus, the investment is made from the mixed bag of funds. Therefore, it is clear that not only the interest bearing fund but the interest free fund as available with assessee was utilized for earning interest income as well as the director salary and capital appreciation in share holding, in M/s.JP Structures Pvt. Ltd. Further, assessee`s income tax return along with the balance sheet and capital account were furnished before the assessing officer. In this regard, it was stated that the original assessment proceedings were carried out only for verification of assessee`s claim for deduction u/s 57 of the Act. The assessee furnished complete details about the Loans accepted, loans given as well as the rate of interest charged and given and allowability of interest paid as deduction claimed u/s 57 of the Act. It is pertinent to mention here that only interest expenditure has been claimed as deduction u/s. 57 of the Act. In replies furnished during the assessment proceedings, the assessee has furnished complete details as asked for as well as made submissions in respect of explanation towards assessee`s claim for deduction u/s 57 of the Act on account of interest paid against the interest earned.



After extensive inquiry and verification of the facts the AO had considered the facts of the case vis-à-vis the provisions of the Act and law. Then AO was pleased to allow the claim for expenditure on account of interest payment. Therefore, order passed by the assessing officer, is neither erroneous nor prejudicial to the interest of the revenue.

5. However, the Id.Pr.CIT having gone through the above submissions of the assessee observed that assessee has received interest @6% on loan given to J.P, Structures Pvt. Ltd. and paid interest @.6% to 18% to various persons as listed in notice u/s 263 of the Act. As per provisions of Section 57(iii), onus is on assessee to prove one to one nexus between borrowed funds and interest bearing advances. When assessee is paying more than 6% interest on borrowed funds, there is no reason to allow such excess interest when assessee is receiving interest @6%. Charging of interest on loan and payment of interest cannot have any nexus with director remuneration hence assessee cannot take stand that as he is receiving remuneration from J.P. Structure, interest rate @6% is reasonable. Merely because assessee and company is subject to same rate, it cannot be claimed that disallowance u/s.57(iii) cannot be made as disallowance is out of interest paid to various parties and not from interest charged from company. This aspect was not considered by AO in assessment order. From the provisions of section 57(iii) it is clear that while computing income under the head 'income from other sources', deduction can be claimed in respect of expenditure incurred solely for the purpose of earning such income. The Courts have also laid down that no expenditure under sub-clause (iii) of section 57 can be allowed as deduction unless the following conditions are satisfied:

- (i) Expenditure should be incurred wholly and exclusively for the purpose of making or earning income,
- (ii) It should not be in the nature of capital expenditure.



(iii) It should not be in the nature of personal expenses of the assessee,

(iv) It should be incurred in the relevant accounting year and not in any prior or subsequent year

6. Therefore, learned PCIT held that it is apparent from assessment record that AO has not established one to one nexus between borrowed funds and interest bearing advances. Therefore, assessment order passed by the assessing officer is erroneous and prejudicial to the interest of the revenue.

7. Aggrieved by the order of the ld.Pr.CIT, the assessee is in appeal before us.

8. Learned Counsel for the assessee argued that during the assessment proceedings, the assessee submitted details and documents to examine the loan taken and given by the assessee. The ld.Counsel took us through page no.43 of the paper book, where the notice issued by the AO under section 142(1) of the Act, is placed, wherein the AO has raised pertinent question, which is reproduced below:

“2. You have claimed a deduction u/s 57 of the IT. Act of Rs.99,81,083/- in the return of income filed against total income from other sources of Rs1,29,86,263/-. You are required to give ledger extract of interest account maintained with you. You are also required to submit the details of interest paid as under in the tabular format with the following columns:

- 1. Name and address of the lenders along with relevant details from loans are taken.*
- 2. P.A.N. of the parties.*
- 3. Opening balance as on 01.04.2017.*
- 4. Date on which loan is received.*
- 5. Amount of loan received during the F.Y.*
- 6. Rate at which interest is paid.*
- 7. Amount of interest paid.*
- 8. T.D.S. Deducted.”*



9. In response to the notice under section 142(1) of the Act, dated 09.03.2020, the assessee submitted its reply before the assessing officer, vide letter dated 18.06.2020. The relevant portion of the reply is reproduced below:

“3. The details in respect of interest received, I am enclosing herewith the chart in the tabular format provided by your authority at Annexure-

I am also enclosing herewith the copies of ledger extract of the persons as per Annexure-E (supra) at Annexure-F.

Regarding copy of statement of bank through which the transactions were materialized for the F.Y. 2017-18, in this connection, I have to clarify that, during the year under consideration, I have given the loan to J.P. Structures Pvt. Ltd. only, hence, I am enclosing herewith the copy of bank statement of the same at Annexure-G1 to Annexure-G8. During the year under consideration, remaining 5 persons, I have not given any loan, hence, their bank statement are required to be filed.

4. The brief note on justification for claim of deduction u/s 57 of the IT. Act, I would like to state that deduction claimed u/s. 57 of the Income Tax Act, 1961 is in respect of the expenditure incurred by me towards Interest on Unsecured Loan and related bank charges in respect of the amount borrowed from various parties for doing investments and giving loans on which the income is earned.

Further with respect to the same, I would like to clarify that the amount raised by me in the form of unsecured loans is parked in the bank account which forms a pool of resource from wherein a numerous transactions related to the income generating investments and loans are done. Further, there are various credit entries in the bank account regarding partial liquidation of income generating investments and loans. All the amount of borrowed funds are utilized for business investment purpose and providing loans and advances.

Further, in respect of the utilization of the amounts raised in the form of unsecured loans by me, I would like to state that the same has been invested by me in the ordinary course of business from wherein I derives income in the form of Interest on Loans and Advances and Remuneration. Further, I would like to state that the amount so raised from the unsecured loans has been mainly invested in the form of Capital Investment in M/s. JP Structures Pvt. Ltd.

From M/s J.P. Structures Pvt. Ltd., I am getting remuneration of Rs.24,00,000/- in the capacity of Director. The company is profit making and also having profit and paid higher tax and dividend is not distributed but accumulated, otherwise I will get dividend also. It means the share price of company is higher. Even the interest on monies borrowed for investment in shares is also allowable expenditure, when the shares have not yielded any return in the share of dividend during the year. Here, in my case the company is yielded return in the share of dividend, but not distributed. I have to clarify that I have not claimed any expenditure except interest. It is also submitted that no part of the borrowed funds on which interest has been paid were utilized for making investment in otherwise, hence, no expenditure has been incurred to earn exempted dividend income during the year under consideration.



Further, I would like to state that deduction u/s. 57 claimed by me for interest expended on unsecured loans is against the interest income on loans and advances which also indicates that the interest bearing loans availed by me are less than the interest bearing funds invested/advanced by the me.

The amount raised in the form of unsecured loans has been invested by me in the ordinary course of business in the form of capital investment and Loans & Advances from wherein the income has been derived by me and has been duly offered for taxation.”

10. The Id. Counsel for the assessee further invited our attention to the second notice issued by the AO during the assessment proceedings, which is placed in the PB page no.53 wherein the AO again conducted further inquiry and directed the assessee to submit the following details and documents, which is reproduced below:

“In connection with the return of income for the AY 2018-19, further you are required to furnish the following:

1. The month wise details of rate of interest received and total amount from JP Structures Pvt. Ltd. during the year under consideration.

2. The month wise chart for rate of interest paid to the lenders in tabular format as asked vide earlier notice u/s 142(1) of the IT. Act.”

11. In response to the notice under section 142(1) of the Act, dated 17.09.2020, the assessee submitted its reply which is placed at PB Page no.55, which is reproduced below:

“In respect of above subject and reference and my earlier submissions of various dates, I would like to state that I am submitting herewith the further following details/information and explanations as required by your authority as per notice under reference:

I am submitting herewith the details regarding the month-wise details of rate of interest received and total amount from J.P. Structures Pvt. Ltd. during the year under consideration as per Annexure-G10.

I am submitting herewith the details regarding the month-wise chart for rate of interest paid to the lenders in tabular format as per Annexure-G11.

I have submitted all the details/information and explanation as desired by you as per notice under reference. If you need any further information or clarifications, please feel free to ask us it will be pleasure for me to submit you.”



12. Therefore, based on these facts, the Id. Counsel for the assessee contended that the assessee has made adequate inquiry during the assessment proceedings, therefore, the order passed by the AO is neither erroneous nor prejudicial to the interest of the Revenue, and hence, the order of the Id.Pr.CIT should be quashed.

13. On the other hand, the Id.DR for the Revenue submitted that the assessee under consideration had given loan to J.P. Structure P.Ltd. in which the assessee himself was a director. The assessee's case was selected for scrutiny for limited purpose of examining the interest earned by the Directors at the rate of 6%, and the assessee has taken unsecured loan from various persons as per Annexure-11 and the assessee paid interest ranging from 6% to 18%. Therefore, the genuineness of this transaction has not been examined by the AO properly.

14. Learned DR further stated that under the head "Income from other sources" only expenses, which are genuine, and incurred for the purpose of business are allowable. The Id.DR further stated that the case laws cited by the Id.Counsel for the assessee are pertaining to section 36(1) of the Act. The assessee has failed to prove the direct nexus between the loan given and loan taken. Therefore, the Id.DR for the Revenue submitted that the AO has not conducted sufficient inquiry during the assessment proceedings. Therefore, the order of the Id.AO is erroneous and prejudicial to the interest of the Revenue. Hence, the Id.Pr.CIT has exercised jurisdiction under section 263 of the Act, therefore, order of learned PCIT may be upheld.

15. We have carefully considered the facts of the case, the submission of the Learned Counsel for the assessee and Id.DR for the Revenue and evidences on record. We note that Ld. Pr. CIT has raised issue that the appellant had charged interest from M/s. JP Structure Pvt Ltd at the rate of 6% , whereas he is paying



interest in range of 6% to 18% PA. Accordingly, he was of opinion that interest paid at the rate exceeding 6% PA, can not be a wholly and exclusive expenses for earning interest income, and therefore excessive paid interest of Rs. 33,54,132/- is not allowable as deduction as per section 57(iii) of the Act. Working of such interest was given as under:

Sr. No.	Name	Interest paid	Interest rate	Difference more than 6%
1	Rajath Finance Ltd	* 860795	6%	0
2	Harjibhai Mokariya HUF	837023	6%	0
3	Chandrikaben N Vaishnav	480000	12%	240000
4	Narendrabhai V Vaishnav	120000	12%	60000
5	Nandlal L Mandavia HUF	639802	18%	426535
6	Nandlal Mandaviya	499646	18%	333097
7	M/s. Nandlal L. Mandavia	1784054	18%	1189369
8	Gordhanbhai C Dobaría (HUF)	134400	12%	67200
9	Heenaben Jagdishbhai Dobaría	1191705	6%	0
10	Jagdishbhai G.Dobaría HUF	161280	12%	80640
11	Riddhi Ramnikbhai Bhalala	916910	9%	305636
12	Sudhirbhai Damjibhai Bhuva	517750	9.50%	190750
13	Labhuben V. Bhuva	536750	9.50%	197750
14	Truptiben Ashokbhai Dobaría	161280	12%	80640
15	Laljibhai Savaliya	* 351370	9%	117123
16	Rajendra R Rawal	130784	12%	65392
	Total			33,54,132

We note that Ld. Pr. CIT had no doubt about genuineness of the aforesaid interest expenses of Rs. 33,54,132/-, nor it was held the same were inflated. It was also held that the interest was paid for earning interest income. But, cause of action is mere excessive rate of interest expenses.

16. We note that once the interest payment is found genuine and incurred for earning interest income, then merely because the rate of interest payment is higher than rate of earning of interest, the same cannot be a reason for



disallowing the claim as per section 57(iii) of the Act. As per section 57(iii) of the Act, only requirement for allowing the deduction under section 57(iii) is that the expenditure has been incurred wholly and exclusively for the purpose of **earning of income**, not **resulting into profit**. Thus as per scheme of the section 57 of the Act, the purpose of expenditure is relevant and not the end result of such expenditure. In other words, what the section 57(iii) requires is that expenses must have been incurred for the purpose of earning income to be eligible to claim the same against the relevant income, size or volume of the expense is irrelevant. There is no question of interpreting the term “**earning income**” as resulting into **positive income or profits**. The moment expenditure has been incurred for earning an income, the expenditure incurred qualifies for deduction u/s. 57(iii) of the Act. Therefore, the finding that interest paid at the rate exceeding 6% is not incurred for earning income is factually as well as legally incorrect and this basis of the Ld. Pr. CIT is, therefore, for denying the claim of expenditure u/s. 57(iii) of the Act is liable to be quashed. In this regard, we rely upon judgment of the Hon’ble Supreme Court in case of CIT vs. Rajendra Prasad Moody, 115 ITR 519 (SC), which says that :

“What s. 57(iii) requires is that the expenditure must be laid out or expended wholly and exclusively for the purpose of making or earning income. It is the purpose of the expenditure that is relevant in determining the applicability of s. 57(iii) and that purpose must be making or earning of income. S. 57(iii) does not require that this purpose must be fulfilled in order to qualify the expenditure for deduction. It does not say that the expenditure shall be deductible only if any income is made or earned. There is in fact nothing in the language of s. 57(iii) to suggest that the purpose for which the expenditure is made should fructify into any benefit by way of return in the shape of income. The plain natural construction of the language of s. 57(iii) irresistibly leads to the conclusion that to bring a case within the section, it is not necessary that any income should in fact have been earned as a result of the expenditure. It may be pointed out that an identical view was taken by this court in Eastern Investments Ltd. v. CIT [1951] 20 ITR 1, 4 (SC), where interpreting the corresponding provision in s. 12(2) of the Indian I.T. Act, 1922, which was ipsissima verba in the same terms as s. 57(iii), Bose J., speaking on behalf of the court, observed:

“It is not necessary to show that the expenditure was a profitable one or that in fact any profit was earned.”



It is indeed difficult to see how, after this observation of the court, there can be any scope for controversy in regard to the interpretation of s. 57(iii). It is also interesting to note that, according to the revenue, the expenditure would disqualify for deduction only if no income results from such expenditure in a particular assessment year, but if there is some income, howsoever small or meagre, the expenditure would be eligible for deduction. This means that in a case where the expenditure is Rs. 1,000, if there is income of even Re. 1, the expenditure would be deductible and there would be resulting loss of Rs. 999 under the head "Income from other sources". But if there is no income, then, on the argument of the revenue, the expenditure would have to be ignored as it would not be liable to be deducted. This would indeed be a strange and highly anomalous result and it is difficult to believe that the legislature could have ever intended to produce such illogicality. Moreover, it must be remembered that when a profit and loss account is cast in respect of any source of income, what is allowed by the statute as proper expenditure would be debited as an outgoing and income would be credited as a receipt and the resulting income or loss would be determined. It would make no difference to this process whether the expenditure is X or Y or nil, whatever is the proper expenditure allowed by the statute would be debited. Equally, it would make no difference whether there is any income and if so, what, since whatever it be, X or Y or nil, would be credited. And the ultimate income or loss would be found. We fail to appreciate how expenditure which is otherwise a proper expenditure can cease to be such merely because there is no receipt of income. Whatever is a proper outgoing by way of expenditure must be debited irrespective of whether there is receipt of income or not. That is the plain requirement of proper accounting and the interpretation of s. 57(iii) cannot be different. The deduction of the expenditure cannot, in the circumstances, be held to be conditional upon the making or earning of the income. It is true that the language of s. 37(1) is a little wider than that of s. 57(iii), but we do not see how that can make any difference in the true interpretation of s. 57(iii). The language of s. 57(iii) is clear and unambiguous and it has to be construed according to its plain natural meaning and merely because a slightly wider phraseology is employed in another section which may take in something more, it does not mean that s. 57(iii) should be given a narrow and constricted meaning not warranted by the language of the section and, in fact, contrary to such language."

17. Similarly, the Hon'ble Punjab & Haryana High Court in case of CIT vs. Pankaj Munjal Family Trust 326 ITR 286 (P&H) has held as under:

"12. After hearing the learned counsel for the parties and going through the impugned order, we do not find any force in the contention raised by the learned counsel for the Revenue; and, in our opinion, no substantial question of law is arising from the impugned order passed by the Tribunal. In the present case, undisputedly, the assessee has borrowed certain amount from the family concerns at 16 per cent. It is also not the case of the Revenue that the assessee has not paid the interest at the said rate to the lender. Merely because the assessee has invested the said borrowed amount for the purchase of 4 per cent, non-cumulative preference shares, it cannot be presumed that the said transaction was colourable because no person with ordinary prudence will borrow money at 16 per cent, and invest the same for the purpose of non-cumulative preference shares. It is the wisdom of the assessee to take a business



decision. If a wrong or unwise decision has been taken by the assessee, it cannot be said that the decision is dubious, or the assessee in such transaction has adopted dubious method to evade the payment of tax. In the instant case, there is no evidence of any dubious method or practice adopted by the assessee. Tax planning is a legitimate right of the assessee. In the present case, the assessee has not adopted any colourable device or dubious method while borrowing certain amount at a higher rate of interest. The Revenue has also not brought on record any evidence to show that the interest paid by the assessee on the aforesaid borrowed amount was highly exorbitant and no such rate of interest was ever prevalent in the market. Therefore, in our opinion, the Tribunal is right in law in allowing interest as claimed by the assessee.”

18. Further, we rely upon judgment of the Hon’ble ITAT, Bench Ahmedabad in case of Shri Girishbhai Vadilal Shah vs. DCIT in ITA No. 429/Ahd/2018 dated 15.03.2024. In this case, out of claim of Rs.1.08 crores of interest expenses, the Assessing Officer had disallowed interest expenses to the tune of Rs. 54,32,948/-, as interest was paid @12%, whereas he was charging lower rate of interest, i.e. ranging from 6% to 10%. The Hon’ble ITAT had deleted the disallowance of excessive interest holding that the disallowance made u/s 57(iii) of the Act was clearly contrary to law as interpreted by the Revenue authorities themselves. The Hon’ble ITAT has held that the Revenue authorities had misinterpreted the provision of section 57(iii) of the Act by stating that expenses under the section can be allowed only if income has been earned from incurrance of the said expense, and the term income means profit earned. We note that in the present case also, the undisputed facts are that the appellant is earning interest @ 6% on loan given, but is making interest payment in range of 6% to 18%. The Ld. Pr. CIT has, therefore, held the interest paid at more than the rate of 6% is not allowable as per section 57(iii) of the Act. Accordingly, when there is no dispute that interest expenditure was laid out for earning the interest income, then the rate of interest for payment of interest is not relevant for the purpose of allowing the deduction under section 57(iii) of the Act. The ratio as settled by the Hon’ble Supreme Court in the case of Rajendra Prasad Moody (supra) and continue followed by the Hon’ble High Courts and the Hon’ble Tribunal, fully applicable



to the facts of the assessee` case under consideration. Based on these facts and circumstances, we find that order passed by the assessing officer is neither erroneous nor prejudicial to the interest of the revenue and not only that order passed by the assessing officer is sustainable in the eye of law. Therefore, the impugned revision order on this count is hereby quashed, and hence, we allow the appeal of the assessee.

19. In the result, appeal filed by the assessee, is allowed.

Order is pronounced in the open court on 29/08/2025

**Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER**

**Sd/-
(DR.ARJUNLAL SAINI)
ACCOUNTANT MEMBER**

राजकोट /Rajkot

दिनांक/ Date: 29/08/2025

*vk

True Copy

आदेश की प्रतिलिपि अत्रेपित/ Copy of the order forwarded to :

- अपीलार्थी/ The assessee
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot

Date

09.06.2025

1. Draft dictated on
2. Draft placed before author