

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, NAGPUR**  
**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA no.105/NAG/2025**  
**(Assessment Year :2015-16)**

Vinit Vishwasrao Hingankar,  
Laxmi Nagar, Gorakshan Road  
Akola -444 004,  
Maharashtra.  
PAN – AAEPH6982N

..... Appellant

v/s

ACIT,  
Aayakar Bhavan, Murtizapur Road,  
Akola, -444001,  
Maharashtra.

..... Respondent

Assessee by: Smt. Veena Agrawal, A.R.  
Revenue by : Shri Surjit Kumar Saha, Sr.DR

Date of Hearing – 15/10/2025

Date of Order – 16/10/2025

**ORDER**

The assessee has filed the appeal against the order dated 13/01/2025, passed by the AddL/JCIT(A) Bhubaneswar u/sec 143(3) and u/sec 250 of the Income Tax Act, 1961 (for short "*the Act*") for the A.Y. 2015-16. The assessee has raised the grounds of appeal challenging the order of the CIT(A) sustaining the disallowance of interest u/sec 40(a)(ii) of the Act and addition of interest income estimated on interest free advances.

2. The brief facts of the case are that, the assessee is a Doctor by profession and has filed the return of income for the A.Y. 2015-16 on

29/09/2015 disclosing a total income of Rs.26,07,200/-. Subsequently, the case was selected for scrutiny under CASS and notice u/sec 143(2) and u/sec142(1) of the Act are issued on 17/08/2016. In compliance, the Ld.AR of the assessee appeared from time to time and filed the details and information supporting the return of income filed. The Assessing Officer, on perusal of the financial statements find that the assessee in respect of two unsecured creditors paid interest of Rs.5400/- and Rs.7,317/- in the F.Y.2014-15 and has not deducted TDS u/sec194A of the Act. The Assessing Officer invoked the provisions of sec40(a)(ia) of the Act and made disallowance of Rs.12,717/-. On the second disputed issue, the Assessing Officer found that the assessee has debited interest paid to secured / unsecured creditors and in the Balance Sheet the assessee has disclosed the interest free advances to the friends and relatives. The assessee has explained the utilization of interest free funds available for profession. Whereas the Assessing Officer observed that the assessee's major portion of interest funds were financed from unsecured loans and the assessee has also received interest free deposit from VNRH Health Service Pvt. Ltd. against the use of open plot. Whereas, the Assessing Officer was not satisfied with the explanations and based on interest rate @12.75% paid by the assessee to others loan creditors has estimated interest income @12.75% on interest free loans and advances of Rs.1,51,78,000/- which works out to Rs.19,35,195/- and assessed the total income of Rs.45,55,110/- and passed the order u/sec143(3) of the

Act dated 12/12/2017. Aggrieved the order, the assessee has filed the appeal before the CIT(A).

3. In the appellate proceedings, the CIT(A) has considered the grounds of appeal, statement of facts, submissions and findings of the Assessing Officer but has confirmed the action of the assessing officer and dismissed the assessee appeal. The assessee being aggrieved filed appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in sustaining the disallowances made by the Assessing Officer overlooking the submissions made in the proceedings. On the first disputed issue with respect to non-deduction of TDS on interest on unsecured loan creditors where the provisions of section 194A of the Act are applicable. The Ld.AR submitted that the Assessing Officer has made 100% disallowance of interest payments u/sec40(a)(ai) of the Act, whereas as per the amended provisions applicable from 1-4-2015 i.e A.Y.2015-16 the disallowance should be restricted to the 30% of the claim of interest. On the second disputed issue, the contentions of the Ld.AR are that adequate interest free funds are available to the assessee and the interest-bearing funds were utilized for the profession. Further the interest free advances and loans were made in the earlier year and no interest income is received and such estimated notional interest income on such advances and loans is not tenable. The Ld.AR substantiated the submissions with the details,

factual paper book and judicial decisions and prayed for allowing the appeal. Per-contra, the Ld.D.R. supported the order of the CIT(A).

5. Heard the rival submissions and perused the material available on record. On the first disputed issue in respect of disallowance of interest u/sec 40(a)(ia) of the Act for non-deduction of TDS. As per amendment by the Finance (No.2) Act 2014 w.e.f 1-04-2015, such disallowance under u/sec 40(a)(ia) of the Act is restricted to 30% of the claim/ sum payable. Hence considering the facts and amendment, the assessing officer is directed to restrict the disallowance of interest to the extent of 30% of the Claim. On the second disputed issue, the Ld.AR has made elaborated submissions on the availability of interest free funds. Prima-facie, the assessee has disclosed the interest free advances to the friends and relatives in the Balance Sheet under current assets and no interest is charged by the assessee. The Ld.AR's contentions are that the assessee has utilized the secured/unsecured loans and the own funds for the purpose of running of the hospital. Further, the Assessing Officer has not pointed out any interest-bearing amount has been utilized for the purpose of paying interest free loans. When a query was raised to the Ld.AR to explain loans and advances with confirmation from friends and relatives who has obtained loan from the assessee and no interest has been paid by them. The Ld.AR submitted that they are not available at this point of time and prayed for one opportunity before the lower authorities to substantiate with evidences, confirmation, PAN and income

tax details. Therefore, considering the facts, circumstances and submissions of the Ld.AR and the principles of natural justice, the assessee should be provided with one more opportunity of hearing. Accordingly, for limited purpose, this disputed issue is restored to the file of the Jurisdictional Assessing Officer to examine and verify the confirmations and evidence in support of the interest free loans/advances to the friends and relatives and grant the relief. The assessee should be provided with the adequate opportunity of hearing and shall co-operate in submitting the information. And the grounds of appeal of the assessee are partly allowed for statistical purposes.

6. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on /10/2025 as per rule 34(5) of the ITAT Rules 1963

**Sd/-**  
**(PAVAN KUMAR GADALE)**  
**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