

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M. JOSHI, JUDICIAL MEMBER**

**ITA No.335/Ind/2025**  
**Assessment Year:2015-16**

Shahanshah Dal Mill, GDM-90, Krishi Upaj Mandi, Karond, Bhopal (Assessee/Appellant)	<b><u>बनाम/</u></b> <b>Vs.</b>	ITO -5(3) Bhopal (Revenue/Respondent)
<b>PAN: ACSFS1095H</b>		
Assessee by	Shri Manoj Fadnis, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	12.02.2026	
Date of Pronouncement	27/02/2026	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first-appeal dated 30.01.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 25.09.2017 passed by learned ITO-5(3), Bhopal ["AO"] u/s 147 r.w.s. 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal on following grounds:

*"1. That the Ld. AO erred in law and on facts in making an addition of Rs. 4,33,857/- to the total returned income of the appellant.*

*2. That the Ld. AO erred on facts and in law in making a disallowance of Rs. 4,33,857/- being interest paid pertains to period up to 14.06.2014, ignoring the explanation and circumstances in which such payments were made and also ignoring the genuineness of such transactions.*

*3. That the appellant reserves the right to add, alter or amend the grounds of appeal before the appeal is decided."*

2. The background facts leading to present appeal are as under:
- (i) The assessee "**M/s Shahanshah Dal Mill**" is a partnership firm. For AY 2015-16 under consideration, the assessee filed return declaring a total income of Rs. 30,690/-. The case of assessee was selected for limited scrutiny to examine the payments made to related persons u/s 40A(2)(b) and claim of high interest expenditure. The AO issued notices u/s 143(2)/142(1) which were complied by assessee. During assessment-proceeding, the AO found that the assessee-firm came into existence w.e.f. 15.06.2014. Originally, a proprietorship concern with same name of "M/s Shahanshah Dal Mill" was owned and carried by "Shri Somamal Waswani". However, "Shri Somamal Waswani" expired on 14.06.2014 and in terms of will executed by him, his son "Shri Shyam Sunder Waswani" became owner of proprietorship concern. However, "Shri Shyam Sunder Waswani" converted proprietorship concern into a partnership firm w.e.f. 15.06.2014 by adding his wife and son. Thus, the present assessee-firm came into existence from 15.06.2014.
- (ii) During assessment-proceedings, the AO issued a show-cause notice dated 12.09.2017 and raised following query among others:

*"3. All the expenses have been claimed by you in the account of firm after 15.06.14, but you have claimed interest of Rs 21,11,436/- on unsecured loan received from various 9 parties for the period of 01.04.14 to 31.03.15. Hence, the amount of interest up to the period of 14.06.14 that comes to Rs 4,33,857/- (21,11,436\*75/365), is liable to be disallowed and proposed to be added in your income. Please Explain."*

(iii) The assessee filed following reply to the query raised by AO:

*"3. In reference to this we hereby submit that no interest has been paid in respect to earlier period of the year under consideration i.e. from "1st April 2014 - 16 June 2014". Rate of Interest has been increases after firm was established and consequently rate has been proportionally taken on the basis of number of days for which Interest has been paid. Interest to the firm cannot be disallowed for the reason that interest has not been paid in the earlier period.*

*Further, whatever Interest was debited in profit and loss account was actually paid and interest was offered by the recipient for tax. Even if the rate of interest may not be 12% on calculation yet the interest payment made by the assessee was income in hands of recipient of interest and assessee have also filed form 26A before your honour and have paid interest from the day on which interest was credited in its book and actual filing of return by the recipient."*

(iv) The AO, however, rejected assessee's reply and disallowed proportionate deduction of interest for the period from 01.04.2014 to 14.06.2014 i.e. for the period during which the present assessee-firm was not in existence. The order passed by AO in this regard is reproduced below:

*"7. The assessee has claimed interest of Rs 21,11,436/- on unsecured loan received from various 9 parties for the period of 01.04.14 to 31.03.15. In Third Para of his reply the assessee submitted that - "no interest has been paid in respect to earlier period of the year under consideration i.e. from "1st April 2014 - 16 June 2014". It is important to mention here that the assessee himself has submitted in his reply that Late Shri Somamal Waswani in his registered will dated 09.02.11, had decided to give ownership of M/s Shahanshah Dal Mill to Shri Shyam Sundar Waswani as a going concern, consequently, the ownership of M/s Shahanshah Dal Mill devolved to Shri Shyam Sundar Waswani immediately after his death. On 15.06.14 immediately after death of Shri Somamal waswani, Shri Shyam Sundar Waswani after becoming owner by devolution from his father had decided that M/s Shahanshah Dal Mill to be converted to a partnership business, by*

*adding two more partners his wife and son and the running business of Shahanshah Dal Mill was converted to partnership business on 15.06.14. It is clear that on conversion all the liabilities had been taken over by the firm and the loans outstanding in the business of individual transferred to the firm. The assessee has also submitted the copy of Audit Report of late Shri Somamal Waswani and it was noticed that all the loans were outstanding from 01.04.14 and it cannot be said that the interest amount was not payable from 01.04.14. The assessee has also paid the interest amount against loan from bank and against car loan. In both the cases the assessee has computed interest amount separately, paid for the period for 01.04.14 to 14.06.14 and for the period of 15.06.14 to 31.03.15. The assessee has submitted this fact in his reply dated 09.07.17 and the same is evident from the perusal of Audit Report of late Shri Somamal Waswani. There is no reason to accept the contention of the assessee that he has not paid the interest amount from 01.04.14 to 14.06.14. The assessee itself submitted in his reply dated 09.07.17 that the interest has been paid for the period of 01.04.14 to 31.03.15. The loan amount was outstanding from 01.04.14 and the assessee himself submitted the ledger copy of Interest to Others which shows the period 01.04.14 to 31.03.15. There is also no ground available that the interest amount for the period of 01.04.14 to 14.06.14, was not charged.*

*The assessee further submitted that whatever interest was debited in profit and loss account was actually paid and interest was offered by the recipient for tax. Even if the rate of interest may not be 12% on calculation yet the interest payment made by the assessee was income in hands of recipient of interest and assessee have also filed form 26A before your honour and have paid interest from the day on which interest was credited in its book and actual filing of return by the recipient. Offering income by the recipients has no connection with this default of the assessee. The ground taken by the assessee is related with TDS default and the point has already been considered in earlier Para. All the expenses have been claimed by the assessee in the account of firm after 15.06.14, but the assessee has claimed interest of Rs. 21,11,436/- on unsecured loan received from various 9 parties for the period of 01.04.14 to 31.03.15. Hence, the amount of interest up to the period of 14.06.14 that comes to Rs 4,33,857/-  $(21,11,436 * 75 / 365)$ , is liable to be disallowed, hence, added in the income of the assessee. As the assessee has furnished inaccurate particular of his income the penalty u/s 271(1)(c) is hereby initiated."*

- (v) Aggrieved, the assessee carried matter in first-appeal but did not file any response to the notices of hearing issued by CIT(A). The CIT(A), vide order dated 31.01.2023, dismissed assessee's appeal and upheld the disallowance made by AO.
- (vi) Still aggrieved, the assessee has come in next appeal before us.

3. The registry has informed that the present appeal had been filed by assessee on 08.04.2025 against impugned order dated 31.01.2023 passed by CIT(A) and hence the appeal is time-barred by 739 days. Ld. AR for assessee submitted that the assessee has filed an application for condonation of delay supported by an affidavit. The application filed by assessee is scanned and re-produced below:

3<sup>rd</sup> April 2025

To  
Hon'ble Income Tax Appellate Tribunal  
Indore

COD.

Sir,

<b>Subject</b>	Prayer for condonation of delay
<b>Name of the appellant</b>	Shahanshah Dal Mill
<b>PAN</b>	ACSF51095H
<b>Assessment Year</b>	2015-16

In the above matter it is most respectfully submitted that the order of the Id. CIT(A) was passed on 31-01-2023. The appeal u/s 253 of the Income Tax Act, 1961 before the Hon'ble Income Tax Appellate Tribunal was to be filed on or before 01-04-2023. As against this the appeal is being filed in April 2025, resulting in a delay of 733 days. The Appellant submits that the delay is unintentional and due to reasons beyond the control of the undersigned as is mentioned hereunder:

1. That the partnership firm was originally constituted by Late Shri Shyam Sunder Waswani on 15-06-2014. He had received the business under will from his father Late Shri Somamal Waswani who had expired on 14-06-2014. The Partnership firm included Late Shri Shyam Sunder Waswani, his wife Smt. Kiran Waswani and his son Shri Ram Waswani.
2. That Late Shri Somamal Waswani was carrying out the business in the name of Shahanshah Dal Mill as a proprietary concern with the aid and assistance of his son Late Shri Shyam Sunder Waswani. Late Shri Somamal Waswani had during his lifetime prepared his will as per which the business was inherited by Late Shri Shyam Sunder Waswani. Upon inheriting the business on 14-06-2014, Late Shri Shyam Sunder Waswani converted it into a partnership firm on 15-06-2014 with the partners as mentioned above.
3. That all the details of the business of Shahanshah Dal Mill before and after 15-06-2014 were in the knowledge of Late Shri Shyam Sunder Waswani. Unfortunately, Late Shri Shyam Sunder Waswani expired on 06-03-2018. After his demise the partnership firm was again reconstituted with the admission of Shri Narendra Waswani son of Late Shri Shyam Sunder Waswani.
4. That the counsel of the assessee CA M.K. Sharma expired on 13-12-2020 due to illness in the pandemic COVID-19. He had been handling the taxation matters for last several years. Due to his sudden and tragic demise, the tax matters were not properly handled. Also, the partners of the firm were not aware of all the details being asked by the assessing officer since they were in the knowledge Late Shri Shyam Sunder Waswani, who was managing the business of the firm. Further, the replies before CIT(A) were not filed, resulting in dismissal of the appeal.

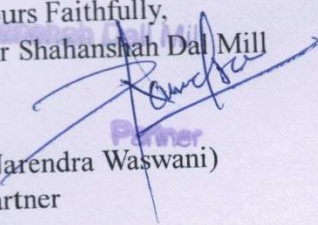
For Shahanshah Dal Mill

5. That the receipt of the order of the CIT(A) in January/February 2023 was not in the knowledge of the undersigned partner.
6. That in February 2025 the order of CIT(A) in the case of the Shyam Sunder Waswani Through Legal Heir Smt. Kiran Waswani & Shri Ram Kumar Waswani was received for AY 2015-16. At that point of time, it was revealed that due to oversight further appeal before Hon'ble Income Tax Appellate Tribunal in the case of Shahanshah Dal Mill was not filed.
7. That the present partners of the assessee firm Shahanshah Dal Mill most humbly and respectfully pray that the delay of 733 No. of days may kindly be condoned.

Thanking You,

Yours Faithfully,

For Shahanshah Dal Mill

  
(Narendra Waswani)  
Partner

4. The Para No. 1 and 2 of the above application gives background relating to constitution of present assessee-firm w.e.f. 15.06.2014. Thereafter, in Para 3 of application, it is submitted that all details of assessee-firm were in the knowledge of "Shri Shyam Sunder Waswani" but unfortunately, he too expired on 06.03.2018. After his demise, the firm was re-constituted by "Shri Narendra Waswani" son of late "Shri Shyam Sunder Waswani" but "Shri Narendra Waswani" remained unaware of the appeal pending before CIT(A) [the appeal before CIT(A) was filed on 03.11.2017 against assessment-order dated 25.09.2017]. That apart, the counsel of assessee, CA M.K. Sharma, also expired on 13.12.2020 during Covid-19 pandemic. Therefore, due to such onerous circumstances one after other, neither there could be participation in the hearings given by CIT(A) nor the

present appeal could be filed in time before ITAT. Ld. AR submitted that there is "sufficient cause" for delay and hence the delay should be condoned. Ld. DR for Revenue left the matter to the wisdom of Bench without raising any objection. We have considered the explanation advanced by assessee and in absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in ***Collector, Land Acquisition Vs Mst. Katiji and others*** **1987 AIR 1353, 1987 2 SCC 387** that whenever "substantial justice" and "technical considerations" are opposed to each other, the cause of "substantial justice" must be preferred by adopting a justice-oriented approach. Thus, taking into account the facts of case, the provision of section 253(5) and the decision of Hon'ble Supreme Court, we take a judicious view, condone delay, admit appeal and proceed with hearing.

5. On merit of case, it is very much clear that the assessee-firm has come into existence w.e.f. 15.06.2014 but claimed deduction of interest for the entire financial year 2014-15 in computing total income. Thus, the assessee has claimed deduction of interest even for the period prior to its existence i.e. for the period from 01.04.2014 to 14.06.2014. It also emerged during hearing that the assessee-firm has offered income and claimed all other expenses for the period after its existence i.e. w.e.f. 15.06.2014. Thus,

the AO is very correct in disallowing proportionate interest for the period upto 14.06.2014 (i.e. before existence of assessee-firm). Ld. AR for assessee, though tried to advance assessee's case to serve his professional duty but, however, could not convince us as to how such interest for the period prior to 15.06.2014 can be allowed to assessee-firm when it was not in existence during that period? Ld. DR for revenue made a serious objection to the claim of assessee and submitted that the disallowance made by AO is perfectly correct according to the law and this bench cannot upset the same. We need not make any elaborate narration of the submission of parties when the issue as well as underlying facts are very clear. Nobody can dispute the statutory scheme of the Income-tax Act according to which every "person" is a separate and distinct taxable entity. In present case, the assessee-firm which is a "person" came into existence w.e.f. 15.06.2014 and prior to that, it was a proprietorship concern carried on by late Shri Somamal Waswani. Therefore, the assessee-firm can claim deduction of expenditure incurred during its own period of existence. Being so, we find no infirmity in the action of the AO as confirmed by Ld. CIT(A), in disallowing the proportionate interest for the period prior to 15.06.2014. Accordingly, the grounds raised by the assessee lack merit and stand dismissed. The assessee fails in this appeal.

**6. Resultantly, this appeal is dismissed.**

Order pronounced in open court on 27/02/2026

Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक /Dated : 27/02/2026

Patel/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore