

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**I.T.A. No. 6027/Mum/2025
A.Y: 2017-18**

Ramesh Nanji Gami 401, Anand Sagar Plot No. 34, Sector 17, Vashi Thane – 400 703 PAN – ADEPP8823H	Vs	ACIT, Circle 28(2) Vashi, Navi Mumbai
(Appellant)		(Respondent)

Assessee by	Shri Khushiram Jadhvani
Revenue by	Ms. Kavitha Kaushik, Sr. DR

Date of Hearing	04.12.2025
Date of Pronouncement	04.03.2026

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeal has been filed by the assessee challenging the impugned order dt. 21.07.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2017-18. The assessee has raised the following grounds of appeal:

- Ground No. 1: Section 143(3): In the facts and circumstances of the case and in law, National Faceless Appeal Centre erred in upholding the assumption of jurisdiction of Ld. AO in passing assessment order dated: 29.11.2019 under section 143(3) when the same is erroneous, illegal, and passed without application of mind and in violation of principle of natural justice.*

2. Ground No. 2: Section 143(3) read with section 36(1) (iii) and read with section 57: In the facts and circumstances of the case and in law, National Faceless Appeal Centre erred in upholding the action of Ld. AO is not allowing the interest expenses claimed under section 36(1) (iii) when appellant placed before Ld. AO the fact that interest expense of Rs. 57,86,684/- has been incurred for earning interest income from capital contribution in partnership firm and interest income from capital balance in partnership firm is assessed under the Profit and Gains of business and profession and not under head income from other sources. Appellant contends that NFAC and Ld.AO both have failed to appreciate that once revised return is filed by Appellant, the provision of section 57 cannot be involved. The Appellant craves leaves to alter, amend, withdraw OR substitute any ground OR ground OR to add any new ground OR ground of appeal on OR before the hearing.

2. Both the grounds raised by the assessee are interrelated and interconnected and relates to challenging the order of Ld. CIT(A) in sustaining the addition made by the AO on account of interest expenses Rs. 57,86,684/- u/s 143(3) r.w.s 36(1)(iii) of the Act. Therefore we have decided to adjudicate these grounds through the present consolidated order.

3. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records we noticed that the issue in question is squarely covered by the decision of Coordinate Bench of ITAT in assessee's brother's case in ITA No.1560/Mum/2025 for A.Y 2017-18, and the operative portion of the said order is reproduced herein below:

3. Briefly stated that the facts of the case are that the assessee filed his return of income on 16/03/2018 declaring

total income at Rs.1,08,24,270/-. The return was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee. While scrutinizing the return of income, the AO noticed that the assessee has claimed a deduction of Rs. 48,89,313/- u/s 57 of the Act.

4. The AO noticed that there is no nexus with the income from other sources and disallowed the claim of interest. The assessee had strongly contended that the same should have been allowed u/s 36(iii) of the Act as interest has been paid on the borrowings invested in the capital of the firm from which the assessee has earned interest on capital under the head "profit and gains from business or professions". This contention of the assessee was dismissed by the AO and disallowed by the Id. CIT(A).

5. Having heard the rival contentions, we have carefully perused the orders of the authorities below. It is true that the assessee has paid interest on borrowings contributed in the capital of partnership firm from which the assessee has earned interest which has been returned under the head profit and gains from business or profession, therefore, in our considered opinion the interest paid on borrowings amounting to Rs. 48,89,313/- deserves to be allowed from the business income. Even if inadvertently the assessee has claimed as deduction under the head income from other sources but the claim u/s 36(iii) of the Act was made during the assessment proceedings itself which was rubbished by the AO but should have been allowed. Therefore, considering the facts of the case in totality, we direct the AO to allow the interest of Rs. 48,89,313/- as deduction from profit and gains from business and profession.

6. In the result, appeal of the assessee is allowed.

4. As per the present case, the assessee had revised the return of income and had claimed interest expenses of Rs.

57,86,684/- under the head business and profession, the above expenses were incurred for earning interest income from capital contribution in partnership firm and interest income from capital balance in partnership has also been assessed under the head profit and gain of business and profession. Since the facts of the present case are similar to the facts of the assessee's brothers case. Therefore respectfully following the decision of Coordinate Bench of the Tribunal in assessee's brother's case for A.Y 2017-18 and in order to maintain judicial consistency we direct the AO to allow the interest of Rs. 57,86,684/- as deduction from profit and gain from business and profession.

5. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 04/03/2026.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
(JUDICIAL MEMBER)

Mumbai:

Dated: 04/03/2026

KRK, Sr. PS.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai