

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER

ITA No. 464/MUM/2015
(Assessment Year : 2009-10)

Mr.Nayant Maneklal Savani,
210E, Om Jayalaxmi, Laxmi Bai Kelkar Road,
Sion (E), Mumbai 400 022
PAN: AABPS 9346J

... Appellant

Vs.

The Income Tax Officer , Range 7(2)(2),
Room No.671, 6th Floor,
Aaykar Bhavan, MK Road,
Mumbai- 400020.

.... Respondent

Appellant by : Shri Nitish Gandhi
Respondent by : Shri Vishwas Jadhav

Date of hearing : 07/12/2015
Date of pronouncement : 29/02/2016

ORDER

The captioned appeal is preferred by the assessee and is directed against the impugned order dated 13/11/2014 of CIT(A)-13, Mumbai, pertaining to the assessment year 2009-10, which in turn has arisen from an order passed by the Assessing Officer dated 25/11/2011 under section 143(3) of the Income Tax Act, 1961(in short "the Act").

2. In this appeal, the solitary issue raised by the assessee is arising from the action of the CIT(Appeals) in sustaining a disallowance of

Rs.23,21,171/- representing interest paid to partnership firm while computing business income in the hands of the assessee.

3. In brief, the relevant facts are that the appellant is an individual who had filed his return of income for assessment year 2009-10 declaring a total income of Rs.8,39,730/- . In the course of the assessment proceedings, the Assessing Officer noted that assessee had earned interest from partnership firm, where he was a partner and also paid interest to another partnership firm M/s.MSN Enterprise, where also he was a partner. The interest paid to MSN Enterprise amounting to Rs.23,21,171/- on account of debit balance with the said firm was disallowed by the Assessing Officer while computing business income. This action of the Assessing Officer was upheld by the CIT(Appeals).

4. Before me, the Ld. Representative for the assessee relied upon the order of the Tribunal dated 09/04/2014 pertaining to assessment year 2008-09, in assessee's own case, wherein similar controversy has been decided in favour of the assessee. It was a common point between the parties that the aforesaid precedent continues to hold the field and has not been altered by any higher authority. Since facts and circumstances and the nature of dispute is similar in this year, following the order of the Tribunal dated 09/04/2014(supra), I set aside the order of the CIT(Appeals) and direct the Assessing Officer to allow the relief to the assessee in accordance with the aforesaid precedent.

5. In the result, the appeal of the assessee is allowed as above.

Order pronounced in the open court on 29/02/2016.

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Mumbai, Dated 29/02/2016

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

Vm, Sr. PS

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai