



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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA no.4543/Mum./2019  
(Assessment Year : 2014-15)

Shri Ajay Narendra Bansal  
Junction of 2<sup>nd</sup> and 4<sup>th</sup> road  
Near Khar Station, Khar (W)  
Mumbai 400 052  
PAN-AACPB6224B

..... Appellant

v/s

Dy. Commissioner of Income Tax  
Circle-8(2)(1), Mumbai

..... Respondent

Assessee by : Ms. Kiran Mehta  
Revenue by : Ms. R. Kavitha

Date of Hearing – 19.02.2020	Date of Order – 13.03.2020
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**ORDER**

The captioned appeal by the assessee arises out of the order dated 29<sup>th</sup> march 2018, passed by the learned Commissioner of Income Tax (Appeals)-14, Mumbai, pertaining to the assessment year 2014-15.

2. The dispute in the present appeal is confined to the disallowance of interest expenditure amounting to ₹ 23,25,355.

3. Brief facts are, the assessee is an individual. For the assessment year under dispute, the assessee filed his return of income on 17<sup>th</sup>

March 2015, declaring total income of ₹ 16,28,230. Subsequently, the assessee filed a revised return of income on 9<sup>th</sup> January 2016, declaring the same income as was declared in the original return of income. However, in the revised return of income, the assessee claimed the deduction of interest expenditure amounting to ₹ 23,25,355, against the business income. Whereas, in the original return of income, he has claimed it against income from other sources. Noticing the above, the Assessing Officer called upon the assessee to furnish the details of loan taken on which the interest was paid. On perusal of the details furnished by the assessee the Assessing Officer observed that the interest expenditure pertains to loan taken by the assessee against residential property. Therefore, he held that the interest expenditure along with principle repaid would qualify for deduction under section 24(b) and section 80C of the Act. Accordingly, the Assessing Officer disallowed the interest expenditure of ₹ 23,25,355. The assessee contested the aforesaid disallowance before the first appellate authority without any success.

4. The learned Authorised Representative submitted, identical issue came up for consideration before the Tribunal in assessee's own case for the assessment year 2011-12 and after considering the facts and material on record, the Tribunal in ITA no.4949/Mum./2018, dated 20<sup>th</sup> August 2019, has allowed assessee's claim of interest expenditure.

Thus, she submitted, the disallowance made by the Assessing Officer should be deleted.

5. The learned Departmental Representative relied upon the observations of the Assessing Officer and learned Commissioner (Appeals).

6. I have considered rival submissions and perused the material on record. The only reason on which the Assessing Officer has disallowed the interest expenditure and learned Commissioner (Appeals) has also sustained such disallowance is, the loan taken by the assessee against which interest was paid being a housing loan, the assessee can only claim deduction under section 24(b) and section 80C of the Act. Learned Commissioner (Appeals) has also held that such interest expenditure cannot be allowed under section 36(1)(iii) of the Act. As could be seen from the facts on record, in the original return of income the assessee has claimed the deduction of interest expenditure against the income from other sources. Whereas, in the revised return of income the assessee has claimed deduction of interest expenditure against the business income. However, in either case the effect on the total income remains the same as the total income declared by the assessee in the original as well as revised return of income is at the same amount of ₹ 16,28,230. Notably, while deciding identical issue relating to assessee's claim of interest expenditure on the very same

loan amount, the Tribunal in the order referred to above while allowing assessee's claim has held that the interest expenditure has to be set-off against the interest income earned and offered under the head income from other sources as per section 57 of the Act. Therefore, keeping in view the aforesaid decision of the Co-ordinate Bench in assessee's own case, the interest expenditure has to be allowed. I may further add, since in the impugned assessment year the effect of allowance of interest expenditure whether from income from other sources or against business income would be tax neutral, I do not intend to deliberate much on the issue, whether it should be allowed against business income or income from other sources. With the aforesaid observations, grounds raised by the assessee are allowed as indicated above.

7. In the result, appeal is allowed.

Order pronounced in the open Court on 13.03.2020

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 13.03.2020**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai