

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No.934/Del/2020  
Assessment Year: 2014-15

<b>Mukul Gupta 206, Hans Bhawan, 1, Bahadur Shah Zafar, Marg, New Delhi PAN No. AJXPG4271H</b>	<b>Vs</b>	<b>ITO Ward -61 (2) Civic Centre, Minto Road, New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Mukul Gupta, CA
Respondent by	Sh. Vipul Kashyap, Sr. DR

Date of hearing:	27/09/2021
Date of Pronouncement:	30/09/2021

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A)-20, New Delhi dated 20.01.2020 pertaining to A.Y. 2016-17.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in upholding the addition of Rs.1429758/-by restricting the interest expense only to the extent of income earned under section 57 of the Act.

3. Assessee is a Chartered Accountant by profession. During the course of scrutiny assessment proceedings the AO noticed that the assessee has borrowed Rs.4,50,91,200/- from M/s. Y. K. Gupta Co. in which he is a partner and has paid interest of Rs.54,06,032/-. The AO further noticed that the assessee has extended a loan of Rs.6,37,49,869/- to M/s. Smartest Corporate Services Pvt. Ltd. from which he had received interest of Rs.3976274/- which was claimed deductions u/s.57 of the Act.

4. The AO was of the opinion that on borrowed funds the assessee has paid interest of Rs.54,06,032/- whereas the assessee has received interest much less from the loan given by him. The assessee was asked to explain as to why the interest of Rs.1429758/- should not be taxed under income from other sources at the same cannot be allowed as income u/s.57 (iii) of the Act. Assessee filed reply which was not accepted by the AO to concluded the assessment proceedings by making addition of Rs.1429758/-.

5. Assessee agitated the matter before the CIT(A) and strongly contended that the entire amount of Rs.4.50 crores borrowed from M/s. Y. K. Gupta & Company was given as loan to M/s. Smartest Corporate Services Pvt. Ltd. the entire interest paid on Rs.4.50 crores should be allowed as expenses u/s. 57 (iii) because the said expenditure was incurred wholly and

exclusively for the purpose of earning interest income from M/s. Smartest Corporate Services Pvt. Ltd.

6. After considering the facts and the submissions the CIT(A) held as under :-

4.3 The contentions of the AR have been considered and the order of the AO has also been perused. It is seen that the assessee was eligible for deduction u/s 57(iii) of the Act on expenses laid out or expended wholly and exclusively for the purpose of making or earning such, i.e. that particular income. The AO is right in observing that the assessee should have claimed deduction from interest income from borrowed funds only. The assessee earned an income of Rs. 16,45,377/-(5621651-3976274) from personal funds advanced as loan to M/s Smartest Corporate Services Pvt. Ltd. The interest income from borrowed funds was Rs. 39,76,274/- only. The assessee had paid Rs. 54,06,032/- as interest on borrowed funds. Therefore, the deduction on account Sec. 57(iii) from interest income of Rs. 39,76,274/- from borrowed funds should have been restricted to Rs. 39,76,274/- only and not Rs. 54,06,032/- as claimed by the assessee from entire income from Other Sources. As pointed out by the AO, the correct way for the assessee to claim deduction u/s 57(iii) would have been, as follows:

Interest Income received		Rupees
Saving Bank A/c (As per Annexure)		27,076/-
Huda Plot Application		3,901/-
Sunworld Developers Pvt. Ltd		7,92,138/-
Sunworld City Pvt. Ltd		2,22,898/-
Sunworld Resi. Pvt. Ltd		83,193/-
Sunworld Infrastructure Pvt. Ltd		1,50,406/-
Smartest Corporate Ser. Pvt.Ltd(Personal Funds)		16,45,377/-
Smartest Corporate Ser. Pvt.Ltd(Borrowed Funds)	39,76,274/- 39,76,274/-	NIL
Less: Interest Paid to M/s Y.K Gupta & Co. (Rs. 54,06,032/- restricted to Rs. 39,76,274/-)		
<b>Total</b>		<b>29,24,989/-</b>

MUKUL GUPTA, निर्धारण वर्ष : 2016-17

Therefore, considering the facts and circumstances of the case, the action of the AO is fair and reasonable and therefore the disallowance of Rs. 14,29,758/- made by the AO is hereby confirmed.

7. Before me the counsel reiterated what has been stated before the lower authorities and the DR strongly supported the assessment order and order of the CIT(A).

8. I have carefully considered the orders of the authorities below. As mentioned elsewhere the assessee is a Chartered Accountant. The assessee borrowed Rs. 4.50 crores from M/s. Y.K. Gupta & Co. a firm of Chartered Accountants wherein the assessee is a partner the assessee extended loan of Rs.6.3 crores to M/s. Smartest Corporate Services Private Limited the assessee is claiming interest paid as deduction from interest received on the ground that interest expenses were incurred wholly and exclusively for the purpose of earning interest income. I fail to understand this transaction of the assessee. The assessee is a practicing Chartered Accountant and is not engage in money laundering business. There is no dispute that the assessee has borrowed the money from his firm for the purposes of his profession. The assessee in his wisdom borrowed money at a higher rate of interest and lended the same at a lower rate of interest. In my considered opinion the AO should have disallowed the entire interest claimed by the assessee but I cannot improve the assessment order nor I can improve the order of the CIT(A). In my considered opinion borrowing money at a higher rate of interest from a related party and lending the same at lower rate of interest to an unrelated party defies all commercial prudence expected from a Chartered Accountant. Surrounding circumstances cannot be ignored.

9. Considering the facts of the case in totality I decline to interfere with the findings of the CIT(A). The appeal filed by the assessee is dismissed.

10. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 30.09.2021.

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:- 30.09.2021

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	28.09.2021
Date on which the typed draft is placed before the dictating Member	30.09.2021
Date on which the typed draft is placed before the Other member	30.09.2021
Date on which the approved draft comes to the Sr.PS/PS	30.09.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	30.09.2021
Date on which the fair order comes back to the Sr. PS/ PS	30.09.2021
Date on which the final order is uploaded on the website of ITAT	30.09.2021
Date on which the file goes to the Bench Clerk	30.09.2021
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	