



ITA No.4993/mum/2018
A.Y. 2013-14
Surendra Kumar P.Jain

आयकर अपीलीय अधिकरण “एक-सदस्य मजमल” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

मजनीय श्री महावीर सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.4993/Mum/2018
(निर्धारण वर्ष / Assessment Year:2013-14)

Shri Surendrakumar P.Jain 47/3, Safia Manzil Maheshwari Road Mumbai-400 009.	बनाम/ Vs.	ACIT-17(3) 1 st Floor, Aaykar Bhavan M.K. Road Mumbai-400 020.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAAPJ-7029-C		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Shri Ashutosh Rajhans-Ld.DR
Assessee by	:	Shri R.M. Jain-Ld. AR

सुनवाई की तारीख/ Date of Hearing	:	11/09/2019
घोषणा की तारीख / Date of Pronouncement	:	11/09/2019

आदेश / ORDER

Per Bench: -

1. Aforesaid appeal by assessee for Assessment Year [AY] 2013-14 contest the order of Ld. Commissioner of Income-Tax (Appeals)-28 Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-28/IT-*



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164/303/ACIT-17(3)/2016-17 dated 15/06/2018 on following grounds of appeal: -

1. On the facts and circumstances of the case the learned CIT(A) erred in confirming the Order of the Assessing Officer.
2. Your appellant state that interest paid on unsecured loan to person specified u/s. 40A(2)(b) @18% is reasonable and not excess.
3. Your appellant therefore prays that addition made on account of interest paid may please be deleted.

As evident from grounds of appeal, the only issue under consideration before us is the reasonableness of the rate of interest paid by the assessee to certain persons as specified u/s 40A(2)(b).

2.1 Facts on record would reveal that the assessee being resident individual stated to be dealing in gold ornaments and coins under proprietorship concern namely M/s Shelaji Asaji & Co. was assessed for year under consideration u/s 143(3) on 27/02/2016 wherein the income of the assessee has been determined at Rs.31.81 Lacs after sole addition of interest for Rs.8.41 Lacs as against returned income of Rs.23.39 Lacs filed by the assessee on 29/09/2013.

2.2 During assessment proceedings, it transpired that the assessee paid interest on loans etc. to certain persons as specified u/s 40A(2)(b) at the rate of 18% as against the rate of 12% paid to other parties. Consequently, invoking the provisions of Section 40A, learned AO disallowed differential interest of 6% which gave rise to addition of Rs.8.41 Lacs in the hands of the assessee. The same, upon confirmation by first appellate authority, is under challenge before us.



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3. We have heard and considered the arguments raised by respective representatives.
4. Upon careful consideration, we find that as per the provisions of Section 40A(2)(a), any expenditure would not be allowable as deduction, if the same, in the opinion of Ld. AO, was excessive or unreasonable having regard to the fair market value of goods / services for which the payment was made by the assessee. Upon perusal of rate of interest chart as placed before us, it is seen that the assessee has paid interest at the rates ranging between 15% to 18% to unrelated parties whereas it has paid interest of 18% to related parties. Therefore, this being the case, the interest paid to related parties could not be said to be excessive or unreasonable. Nothing has been brought on record by lower authorities to demonstrate that the said rate was excessive or unreasonable, in any manner, having regard to the market rates. Therefore, we delete the impugned additions.
5. Resultantly, the appeal stands allowed.

Order pronounced in the open court on 11th September, 2019.

Sd/-

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 11/09/2019

Sr.PS:-Jaisy Varghese



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आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**