

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “B” BENCH**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER  
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)**

[Through Virtual Court]

<b>ITA. No: 2966/Ahd/2017 (Assessment Years: 2014-15)</b>
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<b>Anurag Goel Delta Global Ind. 903, Saffrom Tower, Opp. Central Mall, Panchvati, Ambawadi, Ahmedabad-380006</b>  <b>PAN No. ACDPG4081G</b> <b>(Appellant)</b>		<b>I.T.O, Ward-1(1)(4), Ahmedabad</b>     <b>(Respondent)</b>
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<b>Appellant by : Written Submission Respondent by : Shri R. R. Makwana, Sr. D.R.</b>
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**(आदेश)/ORDER**

Date of hearing : 08-02-2021  
Date of Pronouncement : 03 -05-2021

**PER MAHAVIR PRASAD, J.M.**

1. This appeal filed by the Assessee is directed against the order of the Commissioner of Income Tax (‘hereinafter called CIT(A)’) order no. CIT(A)-1/ITO Ward-

1(1)(4)/242/2016-17 order dated 28/09/2017. Assessee has taken following grounds of appeal:

*Your appellant being aggrieved by the order passed by the learned Commissioner of Income Tax(Appeals)-!- Ahmedabad (herein after referred to as "Ld. CIT(A) u/s 250 of the act, presents this appeal against the same on the following grounds :-*

- 1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in upholding the disallowance of Rs. 17,11,600/- out of total interest expenses on unsecured loans of Rs. 45,64,267/- treating it excessive or unreasonable.*
- 2. The Appellant prays that the disallowance of Rs. 17,11,600/- made out of Interest Expenses be deleted.*
- 3. The appellant craves leave to add, alter and/or to amend any of the grounds stated.*

2. Brief facts of the case are that the appellant is an individual carrying on the business in a proprietorship firm. The appellant had taken Unsecured Loans in the proprietorship firm only from his relatives and also paid Interest @24% totaling Rs. 45,64,267/- during the year under consideration. The appellant had not paid Interest on unsecured loans to any other parties apart from the relatives. During the course of assessment proceedings, an amount of Rs.17,11,600/- was disallowed out of total Interest expenses of Rs.45,64,267/- to the tune of 9% treating it excessive and unreasonable having regard to the fair market value for which the payments have been made under the head interest & allowed interest expenses to the extent of 15% only considering the identical facts in immediately two preceding years. In the first appeal before Hon. CIT(A), disallowance was confirmed by Ld. CIT(A) by considering the First Appellate order for immediately 2 preceding years, i.e. A.Y. 2013-14 & 2012-13 in which the disallowance was confirmed.
3. Ld. D.R. supported the impugned order. However, at the outset, Ld. A.R. filed an order of Co-ordinate Bench wherein in similar facts and circumstances in assessee's own case for immediate preceding year, relief was granted by the Bench and operative portion of the said order is reproduced here:

2. Solitary grievance of the assessee relates to restriction of payment of interest to 15% instead of interest at the rate of 24% paid by the assessee to the persons covered under section 40A(2)(b) of the Income Tax Act, 1961.

3. Brief facts of the case are that the assessee has paid interest on the loans availed from 10 persons. Rate of interest paid was 24%. The Id.AO observed that the same is exorbitant, and accordingly show cause notice was issued to the assessee to explain as to why rate of interest should not be restricted to 15%. The assessee explained that loan taken from relatives are totally unsecured and no security was provided for such loan. Interest on such loan without security or formality always remains on higher rate, and therefore, comparatively, rate of interest charged to the assessee is reasonable and justifiable. The Id.AO did not accept this submission of the assessee and observed that the rate of interest paid by the assessee was much higher than the prevailing market, and therefore, the AO restricted the interest to 15% resulting in proportionate disallowance of Rs.10,18,724/-. Appeal to the CIT(A) did not succeed, hence, the assessee is in further appeal before us.

4. Assessee filed written submissions on the issue. In the written submissions, the assessee inter alia pleaded that the rate of interest at 15% estimated by the AO is without any basis or valid comparable instances. The AO has not assigned any specific reason for treating the rate of interest at 24% as excessive and unreasonable. The AO failed to consider the fact that loan taken from relatives are totally unsecured and without any collateral security, and such type of loans always attract higher rate of interest. It is also pleaded that the Tribunal in the assessee's own case for A.Y.2012-13 considered similar issue in ITA No.2906/Ahd/2015 wherein the Tribunal observed that the rate of interest charged by the assessee at 24% on unsecured loan is not excessive. Assessee placed on record copy of Tribunal's order dated 29.8.2017 to support his case. The Id.DR on the other hand, supported orders of the Revenue authorities.

5. With the assistance of the Id.representatives, I have gone through the record carefully. Section 40A(2)(b) contemplates that if an assessee incurs expenditure for availing the services of persons who are closely associated with the assessee-company or the management, and made payment to such persons in excess to the market rate, then, that extra payment will not be allowed to the assessee as deduction. In other words, if service is being availed by an assessee from the person falling under section 40A(2)(b), and the similar service was availed from open market on a lesser rate, then, the difference between those rates could not be allowed to the assessee as deduction. In the present case, the assessee has availed loan from the persons covered under section 40A(2)(b) and paid interest at the rate of 25%. This, according to the AO is excessive and unreasonable and higher than the one available from the open market. I am of the view that this observation is far from reality and without basis, considering the fact that the

*loan taken by the assessee is wholly unsecured and without any collateral securities. It is free from routine quagmire of formalities as one will be faced in the case of unsecured loans provided by various banks and financial institutions. Therefore, considering risk factor involved in discharge of loans without any securities and proper documentation, I do not find that the rate of interest charged to the assessee to be excessive or unreasonable. Further, even the Tribunal in assessee's own case for A.Y.2012-13 allowed similar claim of the assessee on the same footing. Therefore, following the binding order of the Division Bench of the Tribunal in assessee's own case cited supra, I allow the appeal of the assessee and delete disallowance of Rs.10,18,724/- made by the Revenue authorities.*

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

4. Since in similar facts and circumstances, Co-ordinate Bench has granted relief to the assessee in assessee's own case in ITA No. 2968/Ahd/2016 for A.Y. 2013-14 wherein Assessment Year 2014-15 is before us for our consideration. Thus in parity with the aforesaid order, we allow appeal of the assessee.

5. In the result, appeal filed by the Assessee is allowed.

Order pronounced in Open Court on	03- 05- 2021
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**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER True Copy**  
Ahmedabad: Dated 03/05/2021

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

**Sd/-**  
**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

By ORDER

Deputy/Asstt.Registrar  
ITAT,Ahmedabad