

BEFORE COMMISSIONER OF INCOME TAX (APPEALS)
National faceless Appeal Centre

IN THE MATTER OF

SOHAM MODI

vs.

Income Tax Officer – Ward 16(4)/Hyderabad

APPEAL NO. CIT(A), Hyderabad-4/10608/2019-20

ASST. YEAR 2017-18

BEFORE COMMISSIONER OF INCOME TAX (APPEALS) -4 /HYD

Soham Modi 5-4-187/3 &4, Soham Mansion M.G. Road, SECUNDERABAD – 500 003.		Income Tax officer, Ward 16(4)/Hyderabad.
Appellant	V/s.	Respondent

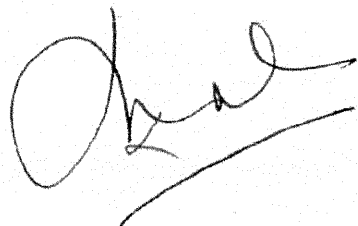
Appeal NO. CIT(A), Hyderabad- 4/10608/2019-20
Asst. Year 2017-18

In connection with the above appeal the following submissions are made before YOUR HONOURS for kind consideration

1. The assessee is an individual and e-filed his IT on 28-10-2017. The total income admitted is Rs.12,44,670/-.
2. The case is selected for scrutiny and the assessment is completed u/s.143(3), vide Order dated 27-12-2019. The income assessed is Rs.31.42,745/-. There has been addition of 18,98,075/-.
3. The break-up of the additions made of Rs.18,98,075/- is as under:

S.No.	Brief details of addition	Amount (INR)
i)	Amount appearing in Form 26AS for TDS deducted by M/s. B & C Estates u/s.194C is considered as income	1,05,486
ii)	Amount appearing in Form 26AS for TDS deducted by M/s. Paramount Builders u/s.194H is considered as income	28,233
iii)	Proportionate disallowance of interest Paid on borrowings	17,64,356
	Total additions made	18,98,075

4. In the course of assessment proceedings, the details and the explanations in respect of all the above additions made have been e-submitted but while completing the assessment, the same have not been considering without giving any reasons.



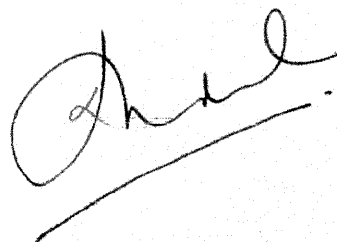
5. In respect of entries appearing of Rs 1,05,486/- in Form 26AS in respect of the deductor M/s. B & C Estate in Form 26AS before TDS correction statement filed by the deductor, it was submitted to the learned Assessing Officer that the deductor has mistakenly filed the TDS statement quoting PAN of the assessee instead of another payee. The deductor later on has filed corrected TDS statement. Form 26AS after such TDS correction has been e-submitted to the Assessing Officer on 12-12-2019. The Ack No 12121912671840 together with the covering letter dated 12-12-2019 and Annexure-3 referred therein is enclosed herewith for your kind perusal as **Annexure A**. In the updated form 26AS submitted to learned Assessing Officer such amount is not appearing and this was submitted before the passing of assessment Order by him.

The above fact and documentary evidence submitted is ignored while completing the assessment. There is no whisper in the assessment Order as to why the explanation and details submitted is not accepted.

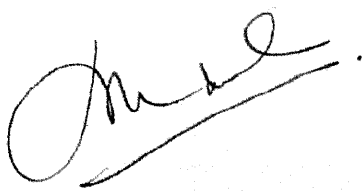
6. In respect of entries of Rs 28,233/0 appearing in Form 26AS in respect of deductor M/s. Paramount Builders, it was submitted that the deductor has shown the amount under wrong section code of 194H instead of correct section code 194A. The total amount appearing in Form 26AS against the deductor M/s. Paramount Builders has been considered by the assessee as interest received. The details of interest received from the party has been e-submitted on 11-11-2019. The Ack No 11111912061242 together with the covering letter dated 07-11-2019 and Annexure-2(Details of Interest received) referred therein is enclosed herewith for your kind perusal as **Annexure B**.

The above fact and documentary evidence submitted is ignored while completing the assessment. There is no whisper in the assessment Order as to why the explanation and details submitted is not accepted.

7. In respect of interest paid to the creditors, all the requested information and the pattern in which the information required has been e-submitted. The Assessing Officer has ignored the same while completing the assessment. The e-submissions made in this regard are as under:

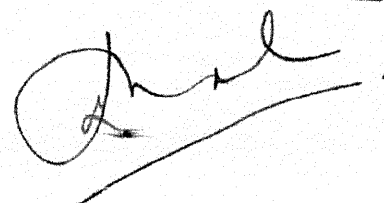


Notice ref No	Covering letter dated	e-submission s dated	e-Acknowledgement no	Annexure reference, if any in covering letter	Annexure reference for present submission
142(1) dated 04-01-2019 and 142(1) dated 11-03-2019	-	Not responded to the Notices	-	However, all the details asked for in the notices have been e-submitted on 04-05-2019. The Ack copy of the submissions made is attached herewith as Annexure-C	Annexure-C
142(1) dated 11-03-2019	02-05-2019	04-05-2019	04051911233261	Point No 10 of the covering letter giving interest details as requested by AO	Annexure-D
142(1) dated 22-05-2019, 142(1) dated 06-08-2019 and	-	Not responded to the Notices	-	However, all the details asked for in the notices have been e-submitted	Annexure-E



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142(1) dated 13-08-2019				on 04-05-2019, 11-11-2019, 09-12-2019, 10-12-2019 and 12-12-2019. The Ack copies of the submissions made are attached herewith as Annexure-E	
142(1) dated 09-10-2019	07-11-2019	11-11-2019	11111912061242	Annexure- 3,4,5 of the covering letter giving details of Interest paid, 14A disallowance calculation and ledger account copies of lenders as a proof of evidence of payment of Interest.	Annexure-F
142(1) dated 18-11-2019	04-12-2019	04-12-2019	04121912499390	In Point No 7 of covering letter, it is	Annexure-G



				informed to the AO that the details of Interest sought for in the Table format as per notice u/s 142(1) has already been furnished on 02-05-2019.	
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8. The Assessing Officer had adopted peculiar approach to conclude that interest paid to the extent of Rs.17,64,356/- is to be disallowed. The Assessing Officer compared the balance of Sundry Debtors and Sundry Creditors outstanding as on 31-3-2017 and interest received and paid thereon. The Assessing Officer has adopted the following approach of proportionate allowances and disallowances for interest paid:

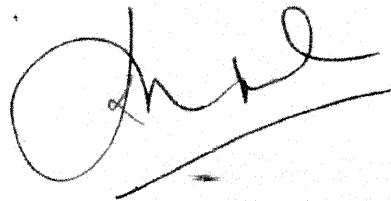
Closing balance for Sundry Debtors as on 31-3-2017	Rs.5,65,83,334/-	A
Closing balance for Sundry Creditors as on 31-3-2017	Rs.4,19,05,120/-	B
Interest received on Sundry Debtors	Rs. 70,80,082/-	C

Proportionate interest that can be allowed on Sundry Creditors = $B/A \times C$

$$= 4,19,05,120/- / 5,65,83,334/- \times 70,80,082/-$$

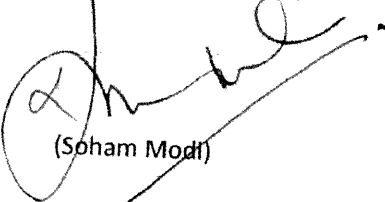
Allowable interest on Sundry Creditors of Rs.4,19,05,120/- = Rs. 52,43,446/-

Amount of Interest disallowed = Interest claimed (-) Interest allowable as above
= Rs.70,08,082/- (-) Rs,52,43,446/- = Rs.17,64,356/-



9. It appears that the addition is made on his whims and fancy of the learned Assessing Officer and without any rationale and logic. The Assessing Officer has totally ignored the movement in the accounts during the year that would have affected the interest payment and interest receipts. The learned Assessing officer has ventured to give a logic that since Rs 70,08,082/- is received on the closing balance of Rs.5,65,83,334/- for Sundry Debtors the corresponding (i.e. proportionate as per Assessing Officer) interest payment on the closing balance of Rs.4,19,05,120/- for Sundry Creditors should be Rs. 52,43,446/- only.
10. Further, the learned Assessing Officer's allegation in para 4 of the Assessment Order that the despite several notices over a period of 7 months, the assessee has not filed the details of party-wise rate of interest is far from the truth. The table in Point No 7 above will show beyond any doubt that we have submitted the details called for by the assessing officer in the early first early dates of hearing and is very much on the e-assessment proceedings. The Assessing Officer for the reasons best known to him has chosen to conveniently ignore the details furnished and proceeded to disallow the claim of interest paid deduction.
11. In fact, for all the 3 items of additions made the details were fully e-submitted yet the same got ignored by the learned Assessing Officer.
12. It is submitted keeping in above facts that the entire additions of Rs 18,98,075/- is bad in law and stands to be deleted.

Your HONOURS, it is pleaded to allow the appeal granting the relief prayed for.


(Soham Modi)

(APPELLANT)