IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.193 OF 2017

Principal Commissioner of Income Tax - 17 .... Appellant

versus

Suryakant H. Gandhi ... Respondent

…....

- Mr.Suresh Kumar, Advocate for Appellant.

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.
DATE : 15th APRIL, 2019.

P.C. :

1. This Appeal is filed by the revenue to challenge the judgment of Income Tax Appellate Tribunal. Following question is presented for our consideration;

> *"Whether, on the facts and in the circumstances of the case and in law the Hon'ble Tribunal was justified in deleting the disallowance of interest expense of Rs.1,50,21,941/- made by the A.O.?"*

2. Brief facts are that the assessee had entered into an

agreement with the cooperative society for development of land for the purpose of which the assessee had deposited certain amounts with MHADA. Somehow, the project did not materialize. The assessee had received a total sum of Rs.1.47 cores and Rs.60 lakhs, which is shown by way of interest and compensation respectively. Both the receipts were shown as business income. The assessee had also interest expenditure of Rs.1.50 crores in the same year. The Assessing Officer rejected the claim of interest expenditure. CIT (Appeal) and Tribunal concurrently held that the assessee was in the business and the interest was paid wholly and exclusively for earning income. The Tribunal in the impugned judgment held and observed as under;

> *"5.3. Before us, the DR supported the order of the AO. We find that the assessee had received certain amount under the head interest and compensation, that he had paid interest during the year under consideration, that the AO disallowed the claim made by the assessee, that he was of the opinion that expenditure was not incurred wholly and exclusively for earning the income. We find that the FAA had*

> *given a categorical finding that there was a direct relation between interest received by the assessee and the interest paid by him, that because of the dispute the assessee was following a particular method of accounting. In these circumstances we are of the opinion that the FAA had rightly held that the transaction related with interest receipt/payment were directly related to the business activity of the assess. Confirming his order, we decide Ground No.1 against the AO."*

3. The entire issue is thus based on appreciation of materials on record. No question of law arises. Income Tax Appeal is dismissed.

(SARANG V. KOTWAL, J.) **(AKIL KURESHI, J.)**