

आयकर अपीलीय अधिकरण “बी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

BEFORE SHRI R. C. SHARMA, ACCOUNTANT MEMBER
AND SHRI PAWAN SINGH, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 3316/Mum/2013
(निर्धारण वर्ष / Assessment Year: 2009-10)

Nimesh N. Kampani 155, 15 th Floor, Jamnalal Bajaj Marg, Nariman Point, Mumbai-400 021	बनाम/ Vs.	Asst. CIT, Circle-4(2) Room No. 642, 6 th Floor, Aayakar Bhavan, M. K. Road, Mumbai-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAHPK 2701 P		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थी की ओर से / Appellant by	:	Dr. K. Shivaram
प्रत्यर्थी की ओर से/Respondent by	:	Shri D. Prabhakar Reddy
सुनवाई की तारीख / Date of Hearing	:	16.03.2016
घोषणा की तारीख / Date of Pronouncement	:	16.06.2016

आदेश / ORDER

Per R. C. Sharma, A. M.:

This is an appeal filed by the assessee against the order by the Id. CIT(A)-8, Mumbai dated 26.02.2013 for the assessment year (A.Y.) 2009-10. In this appeal, the assessee is aggrieved for disallowance of legal expenditure of Rs.40,72,750/- and travelling, hotel expenditure of Rs.14,93,188/-.

2. Rival contentions having been heard and record perused. Facts in brief are that the assessee debited an amount of Rs.55,65,938/- under the head "legal fees and related expenses". In respect of this expenditure, the assessee explained to the Assessing Officer that the assessee was Director on Board of many companies including on the Board of

M/s. Nagarjuna Finance Ltd. This company M/s. Nagarjuna Finance Ltd. received fixed deposit from the public. This company was charged with default in repayment of fixed deposits and interest thereon. The assessee had been mentioned as one of the accused among several others for non payment of these fixed deposits by M/s. Nagarjuna Finance Ltd.. The Andhra Pradesh Government had filed suit against directors of M/s. Nagarjuna Finance Ltd. including against the assessee. To defend himself, the assessee had appointed various advocates to represent his case before various courts viz., District Court, High Court, Supreme Court. The appellant paid fees to the advocates and other expenses incurred. The details of such expenses were furnished by the assessee to the Assessing Officer. The assessee argued before the Assessing Officer that the expenditure was incurred to protect his business interest and, therefore, the same should be fully allowable u/s.37(1) of the Act. As per A.O. the expenditure were personal in nature, he therefore disallowed the same. By the impugned order, the Id. CIT(A) confirmed the action of the A.O. against which the assessee is in further appeal before us.

3. We have considered the rival contentions and found from the record that the assessee is merchant broker. During the year net profit of Rs.15.50 crores was offered to tax. Against of the income so offered the assessee has claimed legal fees and related expenditure of Rs.55,65,938/-, which was disallowed by the A.O. on the plea of personal expenses. From the record we found that that the expenditure is incurred by the assessee in his character as a professional and is not an expenditure which is personal in nature. The assessee has in his professional capacity been a director of various limited companies has earned professional fees for the services rendered to these companies. He was a director of Nagarjuna Finance Limited (NFL) from 14-12-1982 to 28-04-1999. The assessee has earned professional income during all the years, he was, a director of NFL. The details of professional income earned during the said years are given in annexure 'A' which is placed on record. The assessee serves as an Independent Director on the Board of several leading Indian Companies such as Apollo Tyres Limited, Britannia Industries Limited, Deepak Nitrite Limited and KSB Pumps Limited and also a member of various

Governing Boards of Centre for Policy Research, Indian Institute of Capital Markets, CII, SEBI etc. He regularly gets sitting fees and commission from many of these Companies. The assessee was also an independent Director on the board of Nagarjuna Finance Limited. Nagarjuna Finance Limited had collected Fixed Deposits from the public. Nagarjuna Finance Limited was charged with default in repayment of fixed deposits and interest thereon. Mr. Nimesh Kampani has been mentioned as one of the accused among several others, for non-payment of these fixed deposits by Nagarjuna Finance Limited. The Andhra Pradesh Government had since filed suit against directors of Nagarjuna Finance Limited including Mr. Kampani. To defend himself, Mr. Kampani has appointed various advocates to represent his case before various courts viz, District Court, High Court of Andhra Pradesh, Supreme Court of India. As the expenditure is incurred to protect his business interest the same is required to be allowed u/s. 37(1) of the Act. Accordingly we direct the A.O. to allow legal expenses of Rs.40,72,750/-.

4. In respect of travelling expenditure, it appears that the assessee has filed details before the CIT(A) under Rule 46A, which was declined by the CIT(A) as additional evidence. Since the impugned expenditure also partake the character of professional expenses and which goes to the root of the issue while deciding allowability of hotel and travelling expenses, we restore the matter back to the file of the A.O. for considering the additional evidence filed with reference to expenditure of Rs.14,93,188/- incurred on travel and hotel and for deciding the same afresh after giving due opportunity to the assessee.

5. In the result, the assessee's appeal is allowed in part.

Order pronounced in the open court on June 16, 2016

Sd/-

Sd/-

(PAWAN SINGH)

(R. C. SHARMA)

न्यायिक सदस्य / JUDICIAL MEMBER

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई/Mumbai; दिनांक/Dated : 16.06.2016

व.नि.स./Roshani, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai