

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER

ITA No.3726/Mum/2016
(Assessment Year 2012-13)

M/s. Four Dimension Properties Pvt. Ltd.,
B-4 Parekh Apartment Sarojini Road,
Near Mcdonalds, Vile Parle (W),
Mumbai
PAN:AAACF 3232C

..... Appellant

Vs.

The Income Tax Officer 8(1)
Mumbai

.... Respondent

Appellant by : None
Respondent by : Ms Beena Santosh
Date of hearing : 07/12/2016
Date of pronouncement : 09/12/2016

ORDER

The captioned appeal filed by the assessee pertaining to assessment year 2012-13 is directed against an order passed by CIT(A)-16, Mumbai dated 30/03/2016, which in turn, arises out of an order passed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 13/11/2014.

2. In this appeal, assessee has raised the following Ground of appeal:-

"1 That the learned Commissioner of Income tax (Appeals) erred in confirming disallowance of Rs. 1352489/- on account of interest expenses out of total interest expenditure of Rs. 2347511/-.

2. That the learned Commissioner of Income tax (Appeals) erred in not appreciating the facts of the case and confirmed the action of learned Assessing Officer.

3. That the learned Commissioner of Income tax (Appeals) confirming disallowance of Rs. 1352489/- on account of interest expenses is unlawful, unwarranted and not based on the facts of the case and needs to be deleted.

4. That assessee company craves leave to add, alter and/or delete any of the grounds of appeal.”

2. At the time of last hearing, it is seen that the appeal was adjourned at the written request of the assessee's counsel and the next date of hearing i.e. 07/12/2016 was announced in the court. In spite of this, none appeared on behalf of the assessee on 07/12/2016, therefore, I proceed to decide the appeal ex-parte, qua the assessee, after hearing Ld. Departmental Representative as per Rule 24 of Income Tax (Appellate Tribunal) Rules, 1963.

3. In brief, the relevant facts are that the assessee is a company incorporated under the provisions of the Companies Act, 1956 and is, inter-alia, engaged in the business of real estate. In this appeal, the only issue raised by the assessee is against the action of the CIT(A) in confirming the disallowance made by the Assessing Officer of Rs.13,52,489/- on account of interest expenditure out of the total interest expenditure claimed of Rs.23,47,511/-.

3.1 In the context of the said dispute, the relevant discussion in the assessment order reveals that it was noted that assessee had claimed interest expenditure of Rs.24,40,120/-. The Assessing Officer has also noted that during the year under consideration assessee has not shown any business activity except receipt of interest income of Rs.10,87,631/-, against which deduction for interest expenditure of Rs.24,40,120/- has been claimed. It has also been noted that interest of Rs.23,47,511/- was paid to Allahabad Bank on the loan raised and the balance of Rs.92,609/- was paid for an unsecured loan

raised from M/s. Kalani Industries Pvt. Ltd. It has also noted by the Assessing Officer that assessee received interest income of Rs.10,83,713/- from one M/s. Wanderland Real Estate Pvt. Ltd. and Rs.3,918/- from M/s. Rollies Agencies Pvt. Ltd. On being asked to justify, assessee claimed that the source of the advances yielding interest income was from the deployment of the secured loan taken from Allahabad Bank. The Assessing Officer disagreed with the assessee and noted that there was no nexus between the deployment of loan funds for earning interest income even in the context of the loan raised from Allahabad Bank. With regard to the interest expenditure incurred on loan from Allahabad Bank, the Assessing Officer disallowed the same. In so far as the interest paid to M/s. Kalani Industries Pvt. Ltd. was concerned, in the absence of any business nexus shown, the corresponding interest was also disallowed under section 36(1)(iii) of the Act. So however, while computing disallowance of interest expenditure, the Assessing Officer gave credit for the interest income earned of Rs.10,87,631/-, and thus, disallowed a sum of Rs.13,15,489/- out of interest expenditure under section 36(1)(iii) of the Act. The CIT(A) has also dismissed the plea of the assessee by making the following discussion:-

“6.1.1 Vide this ground appellant has agitated against disallowance of Rs.13,52,489/- on account of interest expenses. In para 5 of the assessment order, the Ld. A.O had mentioned that during the year under consideration, the appellant had no construction activity and the only source of income disclosed by the appellant company was income from other sources. According to the A.O, during the year under consideration, the appellant had no business activity except in respect of interest income of Rs.10,87,631/- against which it had claimed interest expenditure of Rs.24,40,120/-. The A.O concluded that the appellant’s claim of entire interest expenditure incurred on secured loan was not allowable as there was no direct nexus of the secured loan obtained and its subsequent utilization for earning interest income. After considering the submissions of the appellant, the Ld. A.O allowed interest expenditure of Rs.10,87,631/- to the tune of interest income shown by the appellant and balance amount was disallowed with the observation that no business activity was conducted by the appellant during the year under consideration and it was not utilized for the business of the appellant company.”

6.1.2 During appellate proceedings a written submission was filed on 23.03.2016. In the written submission, submissions which were made before the A.O were repeated. It was claimed that the appellant company took secured loans from Allahabad Bank on which interest of Rs.23,47,511/- was paid and unsecured loan of Rs.9,48,330/- was taken from Kalani Industries P. Ltd. on which interest of Rs.92,609/- was paid by the appellant company. Nowhere it was demonstrated that loan taken were utilized for the business of the appellant or were used for earning interest income. In absence of proper explanation regarding application of loans take I have no reason to allow the claim made by the appellant in total. In view of it, addition made by the A.O is confirmed and appeal of the appellant is dismissed.”

4. Even before me, no material or evidence has been lead by the assessee so as to interfere with the decision of the CIT(A), which is hereby affirmed. Accordingly, the appeal of the assessee is dismissed.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 09/12/2016

Sd/-
(G.S.PANNU)
ACCOCUNTANT MEMBER

Mumbai, Dated 09/12/2016

Vm, Sr. PS

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai