

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "B", MUMBAI**

**BEFORE D.T. GARASIA, JUDICIAL MEMBER AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No.5752/M/2013  
Assessment Year: 2009-10**

Shri Bhuvnesh Chandra, 302, 3 <sup>rd</sup> Floor, Midtown Apartment, Campa Cola Compound, Worli, Mumbai – 400 018 <b>PAN: ACVPC 1570E</b>	Vs.	Income Tax Officer-7(3)(3), Mumbai
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri Suman Kumar, D.R.

Date of Hearing : 28.06.2017  
Date of Pronouncement : 24.07.2017

**ORDER**

**Per D.T. GARASIA, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 30.08.2013 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. The short facts of the case are that the assessee has claimed the loss on house property under section 23 of the Income Tax Act 1961 of Rs.1,50,000/-. The assessee has not specified as to which house property/flat in respect of which the assessee has claimed said loss of Rs.1,50,000/-. However, from the certificate dated 18.09.2008 issued to the assessee by Union Bank of India it appears that the assessee has taken loan of Rs.77,06,377/- in respect of purchase of flat No.202 in Chandra Sagar, Worli, Mumbai- 400 018. In his letter dated 28.11.2011, the assessee vide para 4 of the said letter explained in the enclosed statement that he has purchased the flats at Chandra Sagar for

Rs.70,00,000/- each and payments have been made from capital gain account Deposit in Bank of India. Even the stamp duty and registration charges are also paid by the assessee from the said capital gains scheme account. It is therefore proved that the assessee has not purchased any flat by using the amount of loan of Rs.77,06,377/- by Union Bank of India. The assessee has paid from Capital Gain account scheme in Bank of India for purchase of 2 flats during the period 29.05.2008 to 17.07.2008. However, from the certificate of loan issued by Union Bank of India, it seems that the loan of R.s.77,06,377/- was disbursed to the assessee after 18.09.2009. It is therefore surprising as to how the assessee has claimed interest of Rs.1,50,000/- against Nil house property income under section 23. Hence, the assessee's claim of interest of Rs.1,50,000/- against the house property is rejected and the income under the head S.O.P. is Rs. Nil. The penalty under section 271(1)(c) initiated for inaccurate particulars of income.

3. Matter carried to the Ld. CIT(A) and the Ld. CIT(A) has dismissed the appeal. Hence, the assessee is in appeal before us.

4. Before us, none appeared on behalf of the assessee. Having heard the Ld. D.R., we have gone through the order of Ld. CIT(A) which reads as under:

“5.1 I have gone through the same. I have also gone through the assessment order and assessment folder. As the AO has mentioned that appellant has not furnished any proof to show that 2 flats are not 2 different flats but are actually a single unit. It is noted that AO's objection is correct as assessee has not furnished any document to support this claim neither during the assessment proceedings nor even during the appellant proceedings to prove that these 2 flats are actually one single unit of habitable house. AO has also brought on record one more factor that in fact assessee has not utilised any fund borrowed for purchase of house and in fact the price for the house was paid from funds available in his Capital Gain Account Scheme. It is also brought on record that the loan amount on which interest paid was claimed as expenses was disbursed much later after purchase of house. In view of this, I am in an agreement with AO's finding that assessee is not entitled for any deduction for interest expenses from the 'House Property Income' for the very reason that same has been not utilized for the purchase of these 2 flats by the assessee.”

5. Before us, the assessee did not remain present. Therefore, in absence of any explanation before us, we have no alternative except to endorse the action of Ld. CIT(A).

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

**Order pronounced in the open court on 24.07.2017.**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(D.T. Garasia)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 24.07.2017.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.