

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'H' NEW DELHI**

**BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER  
&  
SHRI K.N. CHARY, JUDICIAL MEMBER**

**ITA No.-508/Del/2015  
(Assessment Year: 2010-11)**

DCIT Central Circle 32 New Delhi.	vs	Utkarsh Realtech Pvt. Ltd. M-11, Middle Circle, Connaught Circus, New Delhi. AABCU0945J
<b>Assessee by</b>		<b>Sh. Ajay Bhagwani, CA</b>
<b>Revenue by</b>		<b>Sh. Munish Kumar Gupta, CIT DR</b>

<b>Date of Hearing</b>	<b>19.12.2017</b>
<b>Date of Pronouncement</b>	<b>20.12.2017</b>

**ORDER**

**PER K. NARSIMHA CHARY, J.M.**

Aggrieved by the order dated 30.10.2014 in appeal no. 269/13-14/1420 passed by the Ld. Commissioner of Income Tax (Appeals)-XXXIII, New Delhi, Revenue preferred this appeal.

2. Relevant facts as could be gathered from the orders of the authorities below and as pleaded by the assessee, are that the assessee company was incorporated on 06/07/2009 and is an associate of BPTP group of companies. There was a search under section 132 of the Act on 15/11/2007 on BPTP group of companies. At such time, basing on the seized documents, the

assessing officer opined that the BPTP group of companies are paying unaccounted interest payment on post dated cheques and made addition on that account. Subsequently there was another search operation on 07/12/2010, and a notice under section 153A of the Act was issued to the assessee, pursuant to which the assessee filed their return of income on 23/01/2012. In the case of the assessee also Ld. AO made addition of Rs. 37,40,069/-on account of interest on post dated cheques. During the appeal, Ld. CIT(A) observed that in the earlier matters relating to the BPTP group of companies, after considering the evidential value of the seized documents as a result of search, he found that the BPTP group of companies are paying unaccounted interest payment on post dated cheques, and while following the same he observed that, considering the fact that at the time of entering the conveyance deed, there may be agreed consideration in the form of post dated cheques & calculation of interest is inherent while computing the consideration. He further observed that if such period for post dated cheques are extended, the seller of their land would definitely demand compensation for the delay as such, he directed the assessing officer to compute unaccounted interest on post dated cheques given to the farmers on similar lines as

given in his findings in ITA No. 521/09-10/309 i.e., Ld. CIT (A), therefore, directed the AO to re-compute the interest on PDC either on the sale consideration or additional payment to the extent of extended period of PDCs by the AO and in case the working out of the same is not possible, to re-compute the interest on PDCs after six months from the date of issue of PDCs i.e. date of sale, as six months is taken as reasonable period for giving PDC as per sale deed. Aggrieved by this finding of the Ld. CIT(A) , the revenue is in appeal before us.

3. Ld. DR vehemently relied upon the Assessment Order, whereas per contra, Ld. AR submitted before us that in respect of the interest on PDCs, when a similar addition was made in the case of M/s IAG Promoters and Developers Pvt. Ltd., a coordinate bench of this Tribunal in ITA No. 1674/Del/2013, vide order dated 31.10.2014 examined the issue at length and reached a conclusion that the directions given by the Ld. CIT (A) to recalculate the interest on PDCs was on a sound logic and was upheld. Per contra,

4. On this aspect of interest on PDCs, it is an admitted fact that the assessee is a part of BPTP Group and similar additions were made in respect of many group entities. Some matters

were disposed of by the Tribunal also. We have perused the order of a coordinate Bench of this Tribunal in M/s IAG Promoters and Developers Pvt. Ltd (supra). The observations of the Tribunal, vide paragraph no. 5 are as follows:

*“After examining the loose papers seized at the time of search at the assessee's premises, it was noticed that interest is paid on the PDCs only during the period of extension of PDCs and, therefore, he directed the Assessing Officer to recompute the interest on PDCs at the time of extension of the PDCs. He has further observed that if it is not possible to work out the extension of PDCs in each case, then the Assessing Officer is directed to recompute interest on PDCs after six months from the date of issue of the PDCs. Therefore, the ground of appeal of the Revenue that the CIT(A) deleted the addition of Rs. 5,06,625/- made by the Assessing Officer on account of interest on PDCs is factually incorrect and contrary to the order of the CIT(A). The CIT(A) directed to recalculate the interest on PDCs and there was a sound logic for such direction. His direction is based on material found and seized at the time of search. In view of the above, we do not find any justification to interfere with the order of learned CIT(A) in this regard...”*

5. No material is brought to our notice on this aspect to take a contrary view from the one taken above. We, therefore, while respectfully following the above, upheld the findings of the Ld. CIT (A) and dismiss the grounds of appeal of Revenue.

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

Order pronounced in the open court on 20.12.2017

Sd/-

**(N.K. SAINI)**

**ACCOUNTANT MEMBER**

Dated: 20.12.2017

\*Kavita Arora

Sd/-

**(K. NARSIMHA CHARY)**

**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

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ASSISTANT REGISTRAR  
ITAT NEW DELHI