

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "H" MUMBAI**

**BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 651/MUM/2016  
Assessment Year: 2007-08**

M/s Home Loan Services India  
Pvt. Ltd., (Now known HDFC  
Sales Pvt. Ltd.),  
Roman House, H.T. Parekh  
Marg, 169, Back Bay  
Reclamation, Churchgate,  
Mumbai-400020.

Vs.

The Dy.  
Commissioner of  
Income Tax (OSD)  
Range-1(1)(2),  
Room No. 519, 5<sup>th</sup>  
floor, Aayakar  
Bhavan, M.K. Road,  
Mumbai-400020.

**PAN No. AABCH4278H**  
**Appellant**

**Respondent**

Assessee by : Mr. Nitesh Joshi, AR  
Revenue by : Mr. M.C. Omi Ningshen, DR

Date of Hearing : 28/11/2017  
Date of pronouncement : 20/02/2018

**ORDER**

**PER N.K. PRADHAN, AM**

This is an appeal filed by the assessee. The relevant assessment year is 2007-08. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-2, [in short 'CIT(A)'], Mumbai and arises out of the assessment completed u/s 143(3) of the Income Tax Act 1961, (the 'Act').

2. The sole ground raised by the appellant in this appeal is against the order of the Ld. CIT(A) confirming the disallowance made by the Assessing Officer (AO) of staff deputation costs of Rs.72,79,944/-.

3. Briefly stated, the facts of the case are that the appellant had claimed expenses of Rs.72,79,944/- being the amount paid to Housing Development Corporation Ltd. (HDCL) on account of personnel deputed to it. The AO followed the order of his predecessor-in-office for the AY 2005-06 and disallowed the above sum of Rs.72,79,944/-.

4. Aggrieved by the order of the AO, the assessee filed an appeal before the Ld. CIT(A). We find that the Ld. CIT(A) followed the order of his predecessor-in-office for the AY 2005-06 and dismissed the said ground of appeal filed by the appellant.

5. Before us, the Ld. counsel of the appellant relies on the order of the ITAT 'H' Bench, Mumbai in assessee's own case for the AY 2005-06 (ITA No. 1452/Mum/2014) and AY 2006-07 (ITA No. 2995/Mum/2014). On the other hand, the Ld. DR relies on the order of the Ld. CIT(A).

6. We have heard the rival submissions and perused the relevant materials on record. We find that the same issue arose before the ITAT 'H' Bench, Mumbai in assessee's own case for AY 2005-06 and AY 2006-07. The Tribunal vide order dated 04.01.2015 held :

"6. We have heard the rival contentions and perused the record. The assessee company is engaged in the business of canvassing and procuring home loans proposals for the HDFC Ltd. As submitted by the Ld. AR, the activities of the assessee does not require much gestation

period, since it involves only consultancy work. The parent company M/s HDFC Ltd. in order to streamline the operations of the assessee company, has deputed one of its senior employees to the assessee company and accordingly, salary payable to the said officer was reimbursed by the assessee. As submitted by the Ld. AR, the assessee would have employed directly any other person in place of the deputed officer, if the said officer was not deputed to the assessee company. Hence, we agree with the contentions of the Ld. AR that the assessee cannot be said to have obtained any benefit of enduring nature, by reimbursing the cost of salary of deputed officer. In any case, the expenditure incurred on salary on higher officials cannot be considered as capital expenditure during the course of running of business of the assessee company. The same cannot be considered to be the expenditure incurred prior to setting up of business. In view of the above, we set aside the order of the Ld. CIT(A) on this issue for both the years under consideration and direct the AO to delete the impugned addition for both the years.”

6.1 Facts being identical, we follow the above order of the Co-ordinate Bench and delete the disallowance of Rs.72,79,944/- made by the AO.

7. In the result, the appeal is allowed.

**Order pronounced in the open Court on 20/02/2018.**

Sd/-  
(SAKTIJIT DEY)  
JUDICIAL MEMBER

Sd/-  
(N.K. PRADHAN)  
ACCOUNTANT MEMBER

Mumbai;

Dated: 20/02/2018

*Rahul Sharma, Sr. P.S.*

**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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**