

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

**BEFORE SHRI S.K. YADAV, JUDICIAL MEMBER
&
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.-1342/Del/2015
(Assessment Year: 2009-10)**

Green Valley Housing & Land Development Pvt. Ltd., M-11, Middle Circle, Connaught Circus, New Delhi. AAACG4113H	vs	DCIT Central Circle 32, New Delhi.
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Assessee by	Sh. Ajay Bhagwani, CA
Revenue by	Smt. Meeta Singh, CIT DR

Date of Hearing	22.05.2018
Date of Pronouncement	24.05.2018

ORDER

PER SHRI S.K. YADAV, J.M.

This appeal is preferred by the assessee against the order of the Commissioner of Income Tax (Appeals) (for short called as the 'CIT (A)'), inter alia, on following grounds of appeal:

1. *"That the order passed by the Assessing Officer and Commissioner of Income Tax (Appeals)-XXX, New Delhi are bad in law and void ab-initio.*
2. *That on the facts and circumstances of the case and in law the CIT(A) has erred in holding that wherever the date of PDCs are extended, interest is to be taken to have been paid @ 15% p.a. in cash outside the books of account and is to be treated as undisclosed income, thereby sustaining the addition to the extent of Rs. 2,72,490/-.*
3. *The assessee craves permission to add, amend, alter or vary all or any grounds of appeal on or before the date of hearing of the appeal."*

2. During the course of hearing, the Ld. Counsel for the assessee invited our attention that initially assessment was framed u/s 143(3) of the Act, vide order dated 15.12.2011 at an income of Rs. 98,45,550/- after making addition of Rs. 53,15,293/- on account of interest on PDC, an addition of Rs. 39,00,000/- on account of disallowance of additional payment to the returned income of the assessee. This order was challenged before the CIT(A) and now the matter is subjudice before the Tribunal. Consequent to the search carried out at various premises of M/s BPTP Ltd. and its group concerns and associated persons (hereinafter called BPTP Group cases) the assessment was framed in the hands of the assessee u/s 153A/153C of the Act. While completing the assessment the AO again made the addition of Rs. 2,72,490/- which was sustained by the CIT(A) and now the assessee is in appeal before the Tribunal. The Ld. Counsel for the assessee further contended that since addition is already subjudice before the Tribunal in regular appeal emanated from the assessment order passed u/s 143(3) of the Act the same disallowance cannot be made in subsequent assessment framed u/s 153A/153C of the Act, as it amount to a double addition, therefore, the same may be deleted in this case.

3. The Ld. DR did not dispute these facts.

4. Having carefully examined the facts of that case and finding force in the contention of the assessee, we are of the view that once the disallowance of Rs. 2,72,490 is a subject matter of appeal

in an appeal emanating from the original assessment framed u/s 143(3) of the Act the same addition in subsequent assessment proceedings framed u/s 153A/153C of the Act is not sustainable in the eyes of law as it amount to a double addition. We, accordingly, set aside the order of the CIT(A) and delete the addition.

5. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on 24.05.2018

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 24.05.2018

*Kavita Arora

Sd/-
(S.K. YADAV)
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

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Date of dispatch of Order.	