

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

ITA No.1589/Kol/2018
Assessment Year:2013-14

DCIT, Circle-10(1), P-7, Chowringhee Square, 3 rd Floor, Kolkata-69	बनाम/ V/s.	M/s Apsahara Estates Ltd. Block No. DB-80, Salt Lake, Kolkata-64 [PAN No.AAECA 3751 D]
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Saurav Kumar, Addl. CIT-DR
प्रत्यर्थी की ओर से/By Respondent	None
सुनवाई की तारीख/Date of Hearing	06-11-2018
घोषणा की तारीख/Date of Pronouncement	14-11-2018

आदेश /O R D E R

This Revenue's appeal for assessment year 2013-14, arises against the Commissioner of Income-tax (Appeals)-4, Kolkata's order dated 27.04.2018 passed in case No. 195/CIT(A)-4/2016-17 involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Case called twice. None appears at assessee's behest. I thus proceed ex parte against assessee in the instant case.

2. The Revenue's instant appeal suffers one day delay in filing. It is condoned as per Assessing Officer's condonation petition stating reasons thereof. This Revenue's appeal is accordingly taken up for adjudication on merits.

3. The Revenue's former substantive ground seeks to reverse CIT(A)'s findings allowing depreciation of ₹1,58,956/- claimed on building. Learned Departmental Representative fails to rebut the CIT(A)'s clinching finding of the fact that assessee

had nowhere claimed such an amount as expenditure. I therefore decline the Revenue's instant former substantive ground.

4. Next comes the latter issue of disallowance of interest expenditure of ₹1,19,67,007/-. The Revenue's case is that the assessee had been lending money at higher rate of 13-14% as against borrowing rates of 12.75% from related parties etc., I find at page 6 para 5.3 of CIT(A)'s order under challenge that he has directed the Assessing Officer to verify the relevant chart submitted during the course of lower appellate proceedings prima facie indicating higher rate of interest charged than that paid on borrowings. I find no prejudice has been caused to the Revenue since the issue in question is very much alive before the Assessing Officer for consequential adjudication. The Revenue's instant latter ground also fails in these facts and circumstances.

5. This Revenue's appeal is dismissed.

Order pronounced in open court on 14/11/2018

Sd/-
(S.S. Godara)
Judicial Member

Kolkata,

*Dkp/Sr.PS

दिनांक:- 14/11/2018 कोलकाता

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-DCIT, Cir-10(1), p-7, Chowringhee Sq. 3rd Fl, Kolkata-69
2. प्रत्यर्थी/Respondent-M/s Apsahara Estates Ltd., Block No.DB-80, Salt Lake Kol-64
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।