

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**(DELHI BENCH 'C' : NEW DELHI)**  
**BEFORE SHRI Sh. N.S. SAINI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI SHRI KULDIP SINGH, JUDICIAL MEMBER**  
**ITA No.713/Del./2018, A.Y. 2014-15**

A.C.I.T Circle -31(1), New Delhi (APPELLANT)	Vs.	Global Influence 119-120, Rectangle One, District Centre, Saket, Delhi (RESPONDENT)
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ASSESSEE BY : Sh.A.K.Batra, Adv. FCA.  
REVENUE BY : Sh. Amit Kutoch, Sr. DR

Date of Hearing : 17.01.2019  
Date of Order : 27 .02.2019

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

The appellant Assistant Commissioner of Income Tax, New Delhi (hereinafter referred to as 'the revenue') by filing the aforesaid appeal, sought to set aside the impugned order dated 01/11/2017 passed by Ld. Commissioner of Income Tax(Appeals)-11, New Delhi qua the Assessment Year 2014-15 on the grounds inter alia that :

*"1) Whether on the facts and in the circumstances of the case the Ld. CIT(A)-11, New Delhi was justified in*

*deleting the addition of Rs. 53,32,012/- on account of disallowance of loss arising due to restatement of Forex advance.*

*2) Whether on the facts and in the circumstances of the case the Ld. CIT(A)-11, New Delhi was justified in relying upon the order of CIT vs. Woodward Governor India Pvt. Ltd. Reported at 312 ITR 254?*

*3) Whether on the facts and in the circumstances of the case the Ld. CIT(A)-11, New Delhi was justified in deleting the addition of Rs. 28,17,674/- in respect of disallowance of interest u/s 36(1)(iii) of the Act.*

*4) The Department craves leave to add, alter or amend the grounds of appeal at a later stage.”*

2. Briefly stated that facts necessary for adjudication of the controversy at hand are : Assessing Officer has noticed from the perusal of P & L Account that the assessee has debited a sum of Rs. 53,32,012/- towards difference in exchange rate on advance amounting to USD 903943.12 received from foreign buyers during the earlier years. Declining the contentions raised by the assessee, AO proceeded to hold that the amount held by assessee as advance is neither cash in hand nor payable to someone in foreign currency which needs to be restated as on balance sheet date and the assessee has received advances from its prospective buyers for the goods or services to be supplied and the same is not payable in monetary items and as such loss arisen due to restatement of foreign exchange on advance not payable in monetary

items cannot be booked in the P & L account and thereby disallowed the same. AO also disallowed an amount of Rs. 28,17,674/- charged to the P & L Account stated to be paid to Dhanlaxmi Bank on the loan taken for purchase of flats bearing no. 121 and 122 First floor, Rectangle 1, at Saket District Centre, New Delhi, on the ground that interest expenditure against the properties held under the head "investment" cannot be allowed against the business income.

4. Assessee carried the matter before the Ld. CIT(A) by way of filing the appeal who has deleted the addition made by AO by allowing the appeal.

5. We have heard the Id. DR for the revenue, gone through the order passed by the lower revenue authorities and documents relied upon by the parties to the appeal.

**Ground no. 1 & 2**

6. Undisputedly the assessee has claimed an amount of Rs. 53,32,012/- in the P & L Account on account of difference in exchange rate as on 31.03.2014 on advance received from foreign buyers during the earlier years. It is also not in dispute that the assessee has been consistently following the Accounting Standard AS-11. It is also not in dispute the assessee also relied upon ICDS standards notified by the revenue Department. It is also not in dispute that the assessee had received advances from foreign buyers for supply of goods and these advances have been restated by the assessee as on 31.03.2014 based

upon foreign exchange rate as on that date and claimed the notional loss of Rs. 53,32,012/-.

7. In the backdrop of the aforesaid undisputed facts the question arises for determination on this issue is as to whether “the assessee is entitled to claim the loss arisen on account of foreign exchange rate difference in respect of trade advances received from the customer u/s 37(1) of the Act”.

8. Hon’ble Supreme Court of India in case cited as **Commissioner of Income Tax, Delhi vs. Woodward Governor India Pvt. Ltd. 312 ITR 254**, held that “loss” suffered by the assessee on account of fluctuation in the rate of foreign exchange as on date of balance sheet is an item of expenditure u/s 37(1) of the Act.

9. In the instant case when undisputedly assessee has been consistently following the accounting standard AS-11 and also simultaneously relied upon ICDS standard notified by the department, and claiming the difference arisen due to restatement of Forex advances is allowable business expenditure u/s 37 of the Act. Moreover it is also not disputed by the AO that the assessee had received advances from foreign buyers for supply of the goods and these advances have been restated by the assessee as on 31.03.2004 based on the foreign exchange rate. Consequently, the result of restatement of advances received in forex on mark to market basis, the assessee has suffered a loss of Rs. 53,32,012/- which has been claimed in the P & L account following the Accounting Standard AS-11. In the given circumstances, AO has erred in disallowing the loss on the ground that the advance is not payable in the monetary items but adjusted against the delivery of goods.

10. The Ld. CIT(A) has thrashed the issue by perusing the undisputed facts in the light of the decision rendered by Hon'ble Supreme Court in case of **Commissioner of Income Tax, Delhi vs. Woodward Governor India Pvt. Ltd. (supra)**. So, we find no illegality or perversity in the findings of Ld. CIT(A) in allowing the loss arisen to the assessee on account of foreign exchange rate difference u/s 37(1) of the Act. Consequently ground no. 1 and 2 are decided against the revenue.

**Ground no. 3**

11. Undisputedly out of the interest of Rs. 36,11,390/- claimed by the assessee in P & L account , an amount of Rs. 28,17,674/- has been paid to Dhanlaxmi Bank for the loan taken for the purpose of two flats. It is also not in dispute that during the earlier year assessee has purchased two flats bearing no. 121 and 122 First floor, Saket District Centre, New Delhi and has shown as investment under the head "investment". The Assessing Officer disallowed the same being not satisfied with the contention of the assessee that the flats are being used for business purposes and interest on this loan has been allowed in earlier years.

12. The Ld. AR for the assessee contended that interest is allowable despite the fact that asset is shown as "investment" or as a depreciable asset as long as it is used for the purposes of business and relied upon the provisions contained u/s 36(1)(iii).

13. When it is not disputed by AO that the flats purchased with the loan availed from M/s. Dhanlaxmi Bank have been used for business purposes and flats have been shown in the balance sheet the interest is an allowable business deduction as the same has been incurred in respect of capital borrowed and used for business. Moreover, when the flats have been purchased in the earlier years and interest thereon have

been consistently allowed in earlier years, there is no reason to depart from the rule of consistency. So, in view of the matter, Ld. CIT(A) has rightly deleted the addition. Consequently ground no. 3 is determined against the revenue.

14. In view of what has been discussed above present appeal filed by the revenue is hereby dismissed.

**Order pronounced in open court on this 27<sup>th</sup> February, 2019.**

**Sd/-  
(N.S.SAINI)  
ACCOUNTANT MEMBER**

**Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

Dated 27/02/ 2019

**\*BR\***

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)-XXVI, New Delhi.
5. CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI

Date of dictation	21.02.2019
Date on which the typed draft is placed before the dictating Member	22.02.2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	