

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "A", HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

<b>ITA No.1142/Hyd/2016</b>		
<b>Assessment Year: 2008-09</b>		
<b>Kunda Pratap, D.No. 8-2-703/4/P, Road No.12, Banjara Hills, Hyderabad-500034. PAN: ADFPK 4030 Q</b>	<b>Vs.</b>	<b>Addl. Commissioner of Income Tax, Range-12, Hyderabad.</b>
(Appellant)		(Respondent)
Assessee by:	<b>Sri S. Rama Rao</b>	
Revenue by:	Smt. Neeju Gupta, DR	
Date of hearing:	09/07/2019	
Date of pronouncement:	30/08/2019	

**ORDER**

**PER A. MOHAN ALANKAMONY, AM.:**

This appeal is filed the assessee against the order of the Ld. CIT(A)-1, Hyderabad dated 23/05/2016 in Appeal No.0151/2010-11/CIT(A)-1/Hyd/2016-17 passed U/s. 143(3) & U/s. 250(6) of the Act for the assessment year 2008-09.

2. In this appeal, though the assessee has raised 4 grounds, the crux of the issue relates to the disallowance of interest of Rs. 11,81,021/- by the Ld. A.O., while arriving at the income from house property which is further confirmed by the Ld. CIT(A).

3. The Brief facts of the case are that the assessee is an individual and resident filed his return of income for the relevant assessment year on 9/3/2009 admitting total income of Rs. 66,82,073/-. Initially, the return was processed U/s. 143(1) of the Act and subsequently the case was selected for scrutiny under C.A.S.S (A.S.T) and assessment was completed U/s. 143(3) of the Act on 31/12/2010 wherein the Ld. AO disallowed the claim of interest of Rs. 11,81,021/- while computing the income of the assessee under the head income from house property.

4. The Ld. AO made such disallowance because on scrutiny it was noticed that the assessee had acquired office space No.8 admeasuring 1957 sq ft and office space No.4 admeasuring 1608 sq ft, in the commercial complex No. 6-3-1093, Somajiguda, Hyderabad on 17/2/2004 which falls in the FY 2003-04 relevant to the assessment year 2004-05. It was further observed that the loan for acquiring the above said property was obtained by the assessee on 28/2/2005 which is much after the acquisition of the above said property. The Ld. AO therefore opined that the loan obtained by the assessee was not towards purchase of the above said property and therefore the interest attributable towards the same cannot be allowed as deduction while computing the income under the head 'income from house property' as per the provisions of the Act.

5. On appeal, the Ld. CIT (A) confirmed the order of the Ld. AO by agreeing with the view of the Ld. AO.

6. Before us, the Ld. AR submitted a paper book containing 1 – 17 pages and argued stating that the properties were acquired by obtaining loan from various parties and subsequently after obtaining the loan from cosmos cooperative Bank Limited on 28/3/2005 the loan obtained earlier for acquiring the properties was repaid. Therefore it was argued that, the entire loan obtained from Cosmos Coop. Bank Ltd was attributable towards the property acquired and consequently, the assessee is entitled for deduction with respect to the interest paid on such loan while computing the income of the assessee under the head “income from house property” as per the provisions of the Act. It was therefore pleaded that the disallowance made by the Ld. AO of Rs. 11,81,021/- may be deleted. The Ld. DR on the other hand, argued in support of the orders of the Ld. Revenue Authorities and pleaded for confirming the same.

7. We have heard the rival submissions and perused the materials on record. On perusing the records and from the orders of the Ld. Revenue Authorities, it is apparent that the claim made by the assessee that the immovable properties were acquired by obtaining loan from various parties which was subsequently repaid by obtaining loan from Cosmos Coop. Bank Ltd., was not brought to the knowledge of the Ld.

Revenue Authorities. If the claim made by the assessee is genuine, then the assessee may have a case on merit. Therefore, in the interest of justice, we hereby remit the matter back to the file of the Ld. AO for de-novo consideration thereby providing one more opportunity to the assessee in order to explain all the facts before the Ld. Revenue Authorities with sufficient documentary evidence to support his stand. We also direct the assessee to promptly co-operate before the Ld. Revenue Authorities in order to expedite their orders failing which the Ld. Revenue Authorities shall be at liberty to pass appropriate order in accordance with merit and law based on the materials on record.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Pronounced in the open Court on 30<sup>th</sup> August, 2019.

**Sd/-**  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(A. MOHAN ALANKAMONY)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 30<sup>th</sup> August, 2019

**OKK**

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- 2) Addl. CIT, Range-12, Aayakar Bhavan, Basheerbagh, Hyderabad.
- 3) The CIT(A)-1, Hyderabad
- 4) The Pr. CIT-1, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File