

**IN THE INCOME TAX APPELLATE TRIBUNAL
"H" Bench, Mumbai**

**Before Shri Shamim Yahya, Accountant Member
and Shri Saktijit Dey, Judicial Member**

ITA No. 6191/Mum/2018
(Assessment Year: 2014-15)

A C I T - 25(2) Room No. 508, 5th Floor C-10 Pratyaksha Kar Bhavan BKC, Bandra (E) Mumbai 400051	Vs.	M/s. H.K. Pujara Builders 11, Swastik Plaza V.L. Marg, Juhu Scheme Vile Parle (W) Mumbai 400049
PAN – AAAFH7230H		

Appellant

Respondent

Appellant by: Shri M. Rajan
Respondent by: Shri Prakash K. Jotwani

Date of Hearing: 11.09.2019
Date of Pronouncement: 03.12.2019

ORDER

Per Shamim Yahya, AM

This appeal filed by Revenue is directed against the order of the learned CIT(A)-37, Mumbai dated 05.09.2016 and it relates to A.Y. 2014-15.

2. The issue raised in the appeal is that the CIT(A) erred in deleting the disallowance of interest of ₹1,08,66,516/-.

3. Brief facts of the case are that during the scrutiny proceedings, the AO has observed that the assessee has paid interest of ₹1,08,66,516/- to M/s. Grafton Merchant Pvt. Ltd. The AO has further observed that the interest paid to the Grafton Merchant Pvt. Ltd. was disallowed in the A.Y. 2013-14 as the assessee could not prove the credit worthiness of the lender and genuineness of loan transaction as the unsecured loan of ₹3,75,00,000/- taken from Grafton Merchant Pvt. Ltd. was treated as non-genuine transaction. Therefore, the AO has disallowed claim of interest of ₹1,08,66,516/ and added back to the total income.

4. Upon assessee's appeal the learned CIT(A) referred to the order of the CIT(A) for A.Y. 2013-14 and held as under: -

"It is evident from the order of CIT(A)-37 that the loan of Rs.3,75,00,000/- is genuine. The A.O. has made addition of Rs.1,08,66,516/- on account of interest paid on loan. As the loans from the above mentioned party have been held to be genuine, the interest paid of Rs.1,08,66,516/- is also held to be genuine. Considering the earlier decision of CIT(A)-37, the A.O. is directed to delete the said addition. This ground of appeal is allowed."

Against the above order the assessee is in appeal before us.

5. At the outset it is noted that the aforesaid order of the learned CIT(A) for A.Y. 2013-14 is confirmed by the ITAT in ITA No. 3127/Mum/2017 for A.Y. 2013-14 vide order dated 22.02.2019. In this view of the matter there is no infirmity in the order of the learned CIT(A).

6. Moreover, the tax effect in this case is below the limit fixed by CBDT vide Circular No. 17/2019 dated 8th August, 2019 for filing appeals before ITAT.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 3rd December, 2019.

Sd/-
(Saktijit Dey)
Judicial Member

Sd/-
(Shamim Yahya)
Accountant Member

Mumbai, Dated: 3rd December, 2019

Copy to:

1. The Appellant
2. The Respondent
3. The CIT(A) -37, Mumbai
4. The CIT - 25, Mumbai
5. The DR, "H" Bench, ITAT, Mumbai

By Order

//True Copy//

Assistant Registrar
ITAT, Mumbai Benches, Mumbai

n.p.