

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SH. BHAVNESH SAINI, ACCOUNTANT MEMBER
AND
SH. R. K. PANDA, JUDICIAL MEMBER**

ITA No.2720/Del/2017
Assessment Year: 2013-14

Blackwood Developers P. Ltd. Mahmoodabad Estate Building, 15, Hazratganj, Lucknow -226001 PAN No. AADCB2661A	Vs.	ACIT Circle – 5 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Pratap Gupta, CA
Respondent by	Sh. S. L. Anuragi, Sr. DR

Date of hearing:	05/02/2020
Date of Pronouncement:	10/02/2020

ORDER

PER R.K PANDA, AM:

This appeal filed by the assessee is directed against the order dated 17.02.2017 of the CIT(A)-35, New Delhi relating to A.Y.2013-14.

2. The grounds raised by the assessee are as under :-

1. *The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in passing the order which is illegal, improper and against the principles of natural*

2. *The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in passing the order without giving adequate opportunity of being heard.*

3. *The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in confirming the disallowance of interest of $\text{Rs. } 33,75,088/-$ ($\text{Rs. } 24,98,828.53 + 8,76,259/-$) made by the Ld. Assessing Officer.*

4. *The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in not granting relief sought by the appellant in appeal.*

5. *The appellant craves leave to add, amend, alter or withdraw any ground of appeal or raise any new ground of appeal during the pendency of appeal.*

3. Facts of the case, in brief are that the assessee is a company engaged in mall and multiplex business. It filed its return of income on 28.09.2013 declaring total loss of Rs.14,17,20,823/-. The AO completed the assessment u/s. 143(3) on 04.02.2016 determining the total loss at Rs.12,84,32,1260/-wherein he disallowed income from house property at Rs.1,18,34,435/- and business loss of Rs.14,54,331/-. While doing so he did not consider the revised computation of income on the ground that the same was not filed through a revised return where the time for filing a revised return has expired.

4. In appeal the Ld. CIT(A) dismissed the appeal filed by the assessee by observing as under :-

"4.4.1. I have carefully perused the assessment order as well as the assessment order and the verification report dated 30.01.2017.

4.4.2. The first issue that requires adjudication is whether an appellant is competent to revise computation of income after expiry of the date of revising return of income and should the AO accept such a revised computation filed after initiation of assessment proceedings.

4.4.3. In the present case the AO accepted the rental receipt of Rs. 1,69,06,336.00/- shown from 01.04.2012 to 30.06.2012 vide revised computation of income, during assessment proceedings. However he failed to allow deduction on account of interest on borrowed capital of Rs. 24,98,828/- 81 Rs.876259/- as the computation was revised during assessment proceedings and not by way of a revised return.

4.4.4. To this extent I find the action of the AO not legally tenable as once a revised rental receipt is accepted despite the fact that time for revising return had expired then the AO cannot have a different approach for allowing deduction on account of interest on borrowed capital. He is legally bound to accept the latter also, although he has authority to verify the same.

4.4.5. It is also observed that before me during appellate proceedings the AR has failed to produce any documents/relevant paper as concrete evidence to substantiate the claim of interest on borrowed capital. Opportunity was afforded during appellate proceedings by way of notices and hearings but the AR failed to submit relevant evidence/interest documents/bank papers etc.

4.4.6. Thus I observe that the revised computation of income can be accepted by the AO. However the said revised and subsequent claims in the revised computation have to be suitably substantiated with documentary evidence. The AR/appellant has

failed to do the same. Hence claim of deduction on account of interest on borrowed funds is rejected.

5. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

6. We have considered the rival arguments made by both the sides and perused the record. We find despite opportunities granted by the CIT(A) the assessee failed to produce the relevant material for claiming interest on borrowed capital. It is the submission of the Ld. Counsel for the assessee that given an opportunity he is in a position to substantiate the claim with evidence to the satisfaction of the CIT(A). It is his submission that the assessee is contemplating to go for the recently announced tax settlement scheme. Considering the totality of the facts of the case we deem it proper to restore the matter to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate its claim and decide the issue as per fact and law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purpose.

7. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 10.02.2020.

Sd/-

(BHAVNESH SAINI)
JUDICIAL MEMBER

Neha
Date:-10.02.2020

Sd/-

(R.K PANDA)
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)

5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	05.02.2020
Date on which the typed draft is placed before the dictating Member	05.02.2020
Date on which the approved draft comes to the Sr.PS/PS	10.02.2020
Date on which the fair order is placed before the Dictating Member for Pronouncement	10.02.2020
Date on which the fair order comes back to the Sr. PS/ PS	10.02.2020
Date on which the final order is uploaded on the website of ITAT	10.02.2020
Date on which the file goes to the Bench Clerk	10.02.2020
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	