

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

Before Ms. Suchitra Kamble, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 6433/Del/2017 : Asstt. Year : 2013-14

ITA No. 7679/Del/2017 : Asstt. Year : 2014-15

DCIT, Circle-21(1), New Delhi	Vs	Religare Housing Development Finance Corporation Ltd.,D-3, P3B, District Centre, Saket, New Delhi-110017
(APPELLANT)		(RESPONDENT)
PAN No. AAACM6533D		

Present

Assessee by : Sh. Rohit Jain, Adv.

Revenue by : Ms. Parmita M. Biswas, CIT

Date of Hearing: 17.06.2021

Date of Pronouncement: 29.06.2021

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the revenue against the orders of the Id. CIT(A)-38, New Delhi dated 25.07.2017 and 14.09.2017.

2. In ITA No. 6433/Del/2017, following grounds have been raised by the revenue:

"1. On the facts and circumstances of the case, the Ld.CIT(A) has erred in directing the AO to re-compute the profit of eligible business deduction by allocating interest expenditure on the basis of turnover of business segments without establishing the nexus of interest expenses with the business carried on each segment.

2. On facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of

Rs.7,60,092/- made by the AO on account of cessation of trade liability as the validity of cheques had expired and the creditors in respect of the said payments had foregone their liability."

3. In ITA No. 7679/Del/2017, following grounds have been raised by the revenue:

"1. On the facts and circumstances of the case, the Ld.CIT(A) has erred in directing the AO to re-compute the profit of eligible business deduction by allocating interest expenditure on the basis of turnover of business segments without establishing the nexus of interest expenses with the business carried on each segment.

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4. Brief facts of the case are that the AO disallowed interest amount of Rs.2,27,56,710/- u/s 36(1)(viii) on the grounds that the allocation of the assessee on account of interest with regard to segmental reporting in respect of housing loan business, loan against property and other business.

5. The Id. CIT (A) after perusing the submissions of the assessee and the assessment order found that similar issue has been decided by the revenue in favour of the assessee for A.Y. 2012-13. The relevant portion of order of CIT(Appeals)-7, New Delhi in appeal no.376/CIT(A)/Del/2016-17 dated 02.02.2017 is reproduced below:-

"4.31 ..The appellant is engaged in housing finance business and has claimed deduction u/s 36(1)(viii) of the Act at Rs.2.87 crores. The AO disallowed claim of deduction u/s 36(1)(viii) of the Act on the ground that the interest expense in respect of housing loan business eligible for deduction u/s 36(1)(viii) was much higher than the non eligible business and therefore, the allocation was not proper.

Further, that the appellant had inflated its profit from the housing loan segment in order to avail higher deduction u/s 36(1) (viii). The AO was of the view that housing loans are for a longer duration fetching lesser rate of interest and requires more funding than the loans against property, which are loans at a higher rate of interest and comparatively lesser period.

4.4 The Ld. AR has contended that the loans in both business segments i.e. housing loans and loans against property, [income not entitled to claim deduction u/s 36(1)(viii)] are of same duration and the rate of interest charge is almost similar. It is stated that the company maintains separate accounts of income from housing loans and loan against property. The Ld. AR has further stated that ledger accounts were filed before the AO during assessment and it was submitted that the company apportions common expenses such as salary, depreciation, rent, advertisements, printing & stationary, travelling and conveyance, communication expenses, repair & maintenance, auditor's fee and electricity expenses based on the turnover ratio of the two business segments. Further, expenses viz. Provision for housing loan and non housing loan, contingent provision for standard assets which were directly identifiable, related to either of the two business segments are reduced from the income of these two segments. As regards to interest expenditure, which is common to housing loan and loan against property, the apportionment between the two business segments is on the amounts of loans outstanding recoverable as on the year end i.e. 31.03.2012. Accordingly, on this principle, 65% of the interest expense was allocated towards housing loans and 35% towards loan against property. It is also argued that this methodology of apportionment is accepted by the AO for the last assessment year. It is noted that the AO has summarily disallowed the deduction u/s 36(1)(viii) on the ground that allocation of interest expenditure between the two

segments is not in order and the appellant has inflated its profit for higher deduction.

The AO has not examined the submissions furnished by the appellant company and simply disallowed the deduction. The deduction claimed u/s 36(1)(viii) is duly supported by segmental accounting which includes apportionment of expenses, details of which are filed before the AO and in appellate proceedings. In my view, a more acceptable method for determining the profits from eligible business would be allocation of interest expenditure on the basis of turnover of the eligible and ineligible business segments. The AO is directed to re-compute the profit of eligible business deduction by allocating interest expenditure on the basis of turnover and not on the basis of balance of outstanding housing loan and loan against property recoverable at the end of the year as apportioned by the appellant company. The deduction u/s 36(1)(viii) i.e. 20% shall be allowed on such profits and gains of the eligible business arrived after apportionment of the interest expenditure on the basis of turnover ratio of the two segments. This ground of appeal is disposed off accordingly."

6. We have gone through the record and find that the Id. CIT (A) has gone through the root of the matter, examined the disallowance and allowed the appeal of the assessee. The presence of the Id. CIT (A) during the hearing gave us much needed input for adjudication of the case. Hence, we decline to interfere with the order of the Id. CIT (A) on this issue.

7. Ground No. 2 relates to deletion of Rs.7,60,092/- on account of cessation of trade liability.

8. The AO disallowed an aggregate amount of Rs.7,60,092/- comprising professional tax of Rs.5,000/-,

cheques issued for refund of excess EMI received from customers of Rs.1,26,014/-and amount due to service providers/ vendors of Rs.6,29,078/-.

9. The Id. CIT (A) deleted the addition on the ground that the amount has not been remitted from the books of accounts of the assessee and not even three years have been passed, hence, they are beyond the provisions of the law of limitation and creditor can always claim the amount from the assessee. The debts still subsists. On going through the fact on record, we find no legal infraction in the decision of the Id. CIT (A) and hence decline to interfere with the order of the Id. CIT (A) on this ground.

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10. The lone ground taken up by the revenue during the year is akin to the ground no. 1 adjudicated above in the ITA No. 6433/Del/2017 for the assessment year 2013-14 and hence, we hold that the same ratio is applicable *mutatis mutandis*.

11. In the result, the appeals of the revenue are dismissed.
Order Pronounced in the Open Court on 29/06/2021.

Sd/-

(Suchitra Kamble)
Judicial Member

Dated: 29/06/2021

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR