

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A" : HYDERABAD  
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER  
AND  
SHRI S.S.GODARA, JUDICIAL MEMBER**

ITA No.	A.Y.	Appellant	Respondent
1448/Hyd/16	2011-12	Cyber Towers, Hyderabad [PAN: AADFC8686M]	Addl. Commissioner of Income Tax, Range-6, Hyderabad
1449/Hyd/16	2012-13		Deputy Commissioner of Income Tax, Circle-6(1), Hyderabad
672/Hyd/18	2013-14		Deputy Commissioner of Income Tax, Circle-14(1), Hyderabad
155/Hyd/2021	2015-16		Asst. Commissioner of Income Tax, Circle-14(1), Hyderabad

For Assessee : Shri S.Rama Rao, AR  
For Revenue : Shri T.Sunil Goutam, DR

Date of Hearing : 12-01-2022  
Date of Pronouncement : 15-02-2022

**ORDER**

**PER BENCH :**

These four assessee's appeals for AYs.2011-12, 2012-13, 2013-14 & 2015-16 arise from the CIT(A)-6, Hyderabad's separate orders dated 27-07-2016, 26-02-2018 & 28-02-2020 passed in appeal Nos.1162, 1313, 0180 & 10428/2014-15, 2015-16 & 2018-19/B2 & A3/CIT(A)-6/16-17, involving proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, 'the Act']; respectively.

Heard both the parties. Case files perused.

2. It transpires at the outset that this assessee's appeal No.155/Hyd/2021 (AY.2015-16) suffers from 322 days delay stated to be attributable to the reason(s) beyond its control. No rebuttal has come from the departmental side. The impugned delay is condoned therefore.

3. We notice during the course of hearing that the assessee has raised its identical substantive grounds challenging the CIT(A)'s enhancement action holding it to have utilised varying amounts for purposes other than acquisition of property/capital asset thereby disallowing interest paid thereupon for computing income from "house" property as under:

*"05.0 A perusal of the financial statement of the assessee shows that assessee claimed deduction for interest of Rs.6,19,73,315/- against total loan of Rs.51,93,43,032/-. The interest was debited to P&L A/c. In the computation of income under the head 'Income from House Property', deduction has been claimed for the same as 'Interest on borrowed capital'. According to the Balance Sheet, the investment in the building (from where the rent is received) was only Rs.30,31,43,360/-, while it is claiming interest on loan of Rs. 51.93 crores ostensibly utilised for acquiring the property. It is apparent on the face of it that the loan on the balance amounts i.e. Rs.21.62 crores was utilised for some other purpose and hence, interest on such differential sum has wrongly been claimed as deduction while computing 'Income from House Property'.*

*05.0.1 When asked to explain this discrepancy, the assessee submitted that an amount of Rs.20.48 crores had been given to Remax Constructions (a proprietary concern of one of its partners) and had been utilised by the latter towards construction of the assessee's building. It was added that appropriate entries in the books of account had not been made and that the amount, instead being debited to the building account was still shown as an advance to Remax Constructions. The submission has been considered. It is Possible that the contractor has done construction but the accounts are not settled and appropriate entries are not made in the books of account. In view of this, the assessee was asked to produce the construction contract with Remax Constructions and documentary*

*evidence to show that the expenditure had actually been incurred by the latter for constructing the assessee's building. In spite of adequate opportunity, the assessee has failed to furnish these documents and substantiate Its contention. If Remax Constructions had done construction work for the assessee for that sum, the assessee would be liable to deduct tax at source on the same and the Sum of Rs.20.48 crores would be revenue receipt in the hands of the former. But neither the assessee deducted tax at source nor did Remax Constructions showed the amount as revenue receipt and compute income out of that and it's more than 4 years since the end of AY under consideration. It is, therefore, held that amount of Rs.20.48 crores advanced to Remax Constructions represents not investment in the assessee's building but interest-free advance given to the latter. Consequently, there is no reason why deduction for the interest on the same should be allowed while computing its 'Income from House Property'.*

*05.1 The Assessing Officer is directed to compute the disallowance of interest amount as discussed above. Accordingly the assessment is enhanced”.*

There is hardly any dispute that the Ld.CIT(A) has adopted the very identical reasoning in the latter three assessment years as well.

Both the learned representatives reiterated their respective stands against and in support of the impugned enhancement action. Learned counsel's vehement arguments in light of the assessee's voluminous detailed evidence is that the CIT(A) has erred in law and in facts in making the impugned enhancement(s) despite the fact that the taxpayer herein had utilized/diverted its non-interest than interest bearing funds only forming subject matter of the instant sole issue. He referred to the assessee's corresponding particulars in the balance sheet as well. The Revenue has drawn strong support from the CIT(A)'s enhancement action. It fails to dispute that the assessee's fund(s) position available in the relevant previous years has nowhere been considered in the

CIT(A)'s enhancement findings. We are of the opinion that the same goes to root of the matter which requires afresh examination at the Assessing Officer's behest. We thus restore the assessee's instant sole substantive grievance back to the Assessing Officer for his necessary verification and detailed adjudication with liberty to the assessee to raise all factual as well as legal pleas along with filing additional evidence as well; if so advised in consequential proceedings. Needful be done within three effective opportunities of hearing.

4. These assessee's appeals are treated as allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

*Order pronounced in the open court on 15<sup>th</sup> February, 2022*

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

Sd/-  
**( S.S. GODARA )**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 15-02-2022

*Copy to :*

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- 2.The Additional Commissioner of Income Tax, Range-6, Hyderabad.*
- 3.The Deputy Commissioner of Income Tax, Circle-6(1), Hyderabad.*
- 4.The Deputy Commissioner of Income Tax, Circle-14(1), Hyderabad.*
- 5.The Asst.Commissioner of Income Tax, Circle-14(1), Hyderabad.*
- 6.CIT(Appeals)-6, Hyderabad.*
- 7.PCIT-6, Hyderabad.*
- 8.D.R. ITAT, Hyderabad.*
- 9.Guard File.*