

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A”BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1806/Bang/2016
Assessment Year: 2012-13

Reddy Builders Pvt. Ltd. No.51, Le Parc Richmonde Richmond Road Bangalore 560 025 PAN NO :AAACR6551N	Vs.	ACIT Circle-5(1)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri H.R. Suresh, A.R.
Respondent by	:	Shri Sankar Ganesh K., D.R.

Date of Hearing	:	21.02.2022
Date of Pronouncement	:	21.02.2022

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 16.8.2016 passed by Ld. CIT(A)-5, Bengaluru and it relates to the assessment year 2012-13. The grounds of appeal urged by the assessee relate to disallowance of Rs.26,62,796/- being interest payment made to Citi Bank on loan taken for construction of Immovable property and claimed as deduction u/s 24(b) of the Income-tax Act,1961 ['the Act' for short].

2. The assessee is engaged in the business of letting out commercial properties. The assessee had claimed deduction of

Page 2 of 4

interest expenditure of Rs.26,62,796/- u/s 24(b) of the Act against the rental income declared by it under the head "Income from house property". The A.O. noticed that the assessee has taken overdraft facility from Citi Bank, which is titled as "Drop Line Over Draft". The A.O. took the view that the interest u/s 24(b) of the Act can be allowed only if the property has been acquired, constructed, etc. with the borrowed capital. The A.O. took the view that the assessee has availed the loan facility on the security of the rental incomes and hence the loan was not used for acquisition of any property. Accordingly he held that the interest payable on the above said loan is not deductible u/s 24(b) of the Act. Accordingly, he disallowed the claim for deduction of interest expenditure. The Ld. CIT(A) also confirmed the same.

3. The ld. A.R. submitted that the assessee has availed loan only for construction/purchase of property located at Gold Hill Square, Hosur Road, Bangalore. He submitted that the loan availed is Rs.12,50,00,000/- and it was given as dropline overdraft facility by the Citi Bank, which is a new type of product introduced by the Citi Bank. He submitted that the loan amount has been used only for acquisition of the property in Gold Hill Square building. Inviting our attention to the page no.4 of the written submissions, the Ld. A.R. submitted that the assessee has been incurring expenditure from assessment year 2006-07 to 2011-12 on the above said property. The aggregate amount spent on above said property is Rs.11.13 crores. Accordingly, he submitted that the interest expenditure is allowable as deduction u/s 24(b) of the Act.

4. On the contrary, the Ld. D.R. submitted that the assessee has not proved before the tax authorities that the loan amount has been used for the purchase/construction of the property. He

Page 3 of 4

submitted that the primary condition to be satisfied for availing deduction u/s 24(b) of the Act is that the assessee should demonstrate that the loan amount was used for acquisition/construction etc. of property.

5. We heard the rival contentions and perused the record. It is the submission of the assessee that the loan amount has been used only for acquisition of the above said property and this fact is being disputed by the tax authorities. We agree with the Ld. D.R. that it is necessary for the assessee to demonstrate that the borrowed funds were used for the purpose of acquisition/construction etc., of the property against which interest expenditure is claimed as deduction u/s 24(b) of the Act. What is important is that the use of borrowed funds for acquisition/construction etc of the property. The nature of loan, in this regard, may lose significance. When this was pointed out to Ld. A.R., he submitted that the assessee may be provided with an opportunity to demonstrate the nexus between the borrowed funds and acquisition of the property.

6. Accordingly, in the interest of natural justice, we are of the view that the assessee may be provided with an opportunity to demonstrate the nexus between the borrowed funds and acquisition/construction etc., of the property referred above. We noticed that the assessee has given details for a sum of Rs.11.13 crores, while the amount borrowed was Rs.12.50 crores. Hence it is imperative for the assessee to prove the nexus to the satisfaction of the AO and the interest expenditure relating to the portion of the loan amount, which was actually used for acquisition/construction etc of the property should be allowable as deduction u/s 24(b) of the Act.

Page 4 of 4

7. Accordingly, we set aside the order passed by Ld CIT(A) on this issue and restore the same to the file of the A.O. for examining the claim of Ld. A.R. that there exists nexus between borrowed funds and cost of acquisition/construction etc of the property referred above. After examining the claim of the assessee with the information and explanations presented before him, the A.O. may take appropriate decision in accordance with law.

8. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 21st Feb, 2022.

Sd/-
(N.V. Vasudevan)
Vice President

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 21st Feb, 2022.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.