

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ **ITA No.1867/Chny/2016**  
(निर्धारण वर्ष / **Assessment Year: 2010-11**)

<b>Shri P. Ramanathan</b> Old No.52, New No.13, Stringers Street, Chennai-600 108.	<b>बनाम/</b> Vs.	<b>Income Tax Officer</b> Business Ward-IX(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./ <b>PAN/GIR No. AAAPR-8182-L</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	None
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Ms. R. Helan Ruby Jesintha (Addl. CIT)-Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	15-02-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	21-02-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal is a recalled matter since the appeal was dismissed ex-parte qua the assessee vide order dated 23.09.2016. However, the order has been recalled, upon assessee's misc. application, vide MP No.267/Mds/1027 order dated 12.12.2017. Accordingly, the appeal has come up for fresh hearing before this bench. None has appeared for assessee and no adjournment application is on record. The perusal of order sheet entries would reveal that none is

appearing since past many occasions. Left with no option, we proceed to adjudicate the appeal on the basis of material on record. The Ld. DR pleaded for dismissal of the appeal.

2. This appeal for Assessment Year (AY) 2010-11 arises out of the order of learned Commissioner of Income Tax (Appeals)-13, Chennai [CIT(A)] dated 28.03.2016 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 27.03.2013. In this appeal, the main grievance of the assessee is disallowance of interest expenditure incurred on House Property and determination of Annual letting Value (ALV) of the property let out.

3. The perusal of impugned order would show that the assessee reflected loss of Rs.4.07 Lacs under the head Income from House Property. The assessee owned two properties – one at 99/50, TTK Road, Chennai and another bearing No. 101/51, TTK Road, Chennai. The assessee claimed interest on borrowed capital for Rs.22.85 Lacs against first property. The loan of Rs.2.45 Crores was stated to be taken from SBI in FY 2008-09. Upon perusal, it transpired that the loan of Rs.2 Crores was sanctioned for closure of various cash credit loans taken by assessee's partnership firm and also to settle car loans and also used for construction of second property. On the basis of these facts, Ld. AO allowed interest only to the extent of Rs.0.21 Lacs. The assessee had reflected rental income of Rs.2.30 Lacs per month. However, after examination of rental agreements, Ld. AO adopted rent as Rs.3.10 Lacs per month and finally assessed the income at Rs.31.81 Lacs.

4. The Ld. CIT (A) noted that the assessee had furnished the details of loans taken from different banks. During the course of assessment

proceedings, the assessee sought to establish the trail of earlier loans taken by him in support of the claim. The assessee had also tabulated the quantification of interest pertaining to the property situated at 99/50 TTK Road. However, the same could not satisfy Ld. AO.

5. After going through material facts, Ld. CIT(A) confirmed the stand of Ld. AO with following factual observations: -

**I have given careful consideration to the assessee's written submission before me** and I arrive to a conclusion that assessee owns two properties bearing No.99/50, TTK Road and 101/51, TTK Road. Assessee has claimed interest of Rs.22,85,724/- against the rental income of property No.99/50, TTK Road. Based on the written submission of the appellant I find that only the interest of Rs.21,438/- pertains towards property loan interest and that too also against the property 99/50 TTK Road. The assessee having furnished details of loans from SBI and from its contents I arrive to a conclusion that the loans received from SBI were for closure of loans that were sanctioned in the name of the firm M/s. Star Trading where the assessee is a partner. The primary security was rent receivable from the property No.99/50 TTK Road. Out of Rs.2.45 crores only Rs.45 lakhs was sanctioned for construction of a commercial building on plot No.101/51 TTK Road. Assessee has borrowed loans from REPCO Bank for purchase and construction of property No.99/50 TTK Road. The said loan was made over to the Corporation Bank for Rs.55 lakhs in the year 2005. Thereafter assessee firm M/s. Star Trading made over the loans of Corporation Bank and gave loan for Rs.95 lakhs in the year 2008. The liability of firms, i.e., Rs.1 crore as cash credit and Rs.30 lakhs was transferred to the assessee's name and in the assessment year 2010-11, claimed interest against the total loan of Rs.2.45 crores amounting to Rs.22,85,724/- against the rental income of the property 99/50 TTK Road is not acceptable on the ground that the loans which were borrowed against the property 99/50 TTK Road have since been repaid. Therefore assessee cannot claim interest on such loans for the property at 99/50 TTK Road as it is clear from the appellant written submission that subsequent loans sanctioned were used for the business purposes, personal purposes, education loan purposes, car loan purposes etc. The interest claimed is for the property at 99/50 TTK Road the loans for which were already been repaid and the rental income of the another property at 101/51,TTK Road has not been offered / admitted by the assessee for the AY 2010-11. Therefore the assessee's claim to allow interest of Rs.22,85,724/- as a whole against the rental income of property income of 99/50 TTK Road is not acceptable. As on 31.03.2005 the year in which the said housing loan was closed the closing balance was appearing for Rs.1.75 lakhs. This balance of Rs.1.75 lakhs is taken as balance as on 31.03.2010 for the purpose of calculating eligible interest on housing loans used for the construction of the property 99/50 TTK Road. The AO had allowed interest on the specific housing loan outstanding as on 31.03.2010 for Rs.1.75 lakhs @ 12.25% amounting to Rs.21,438/- which relates to property

No.99/50,TTK Road. Other loans clearly indicate the purpose to be for the business and therefore balance of such loans was nothing but assessee's business liabilities. Accordingly based on the analysis of the facts carried out above, the assessee's ground of appeal to allow entire interest of Rs.22,85,724/- against the property income is not acceptable therefore I confirm the action of the AO on this issue and therefore the ground of the appeal is **dismissed**.

6. On the issue of ALV of the property, the assessee submitted that there was reduction of rent as per the agreement. The Ld. AO failed to take note of subsequent agreement wherein the rent was reduced to Rs.2.30 Lacs per month. However, Ld. CIT(A) rejected the plea of the assessee with following observations: -

Thus assessee's claim of rental income of the property No.99/50, TTK Road for Rs.2,30,000/- per month is analysed with respect to lease rental agreement dated 01.02.2008 made between Puma Sports India Pvt. Ltd as first party and Mr. P. Ramanathan as second party wherein lease rent per month of the property is given at para 3.1 of the Lease Agreement which states as under :

*"Commencing from the Lease commencement date, i.e., 1st April 2008 and during the Initial Term the Lessee shall pay to the lessor a monthly lease rent (the "Rent") of Rupees Three Lakh and ten thousand only (INR 3,10,000/-) for the Premises, per month, which shall be inclusive of maintenance charges, subject to deduction of taxes at source.*

*The Lessee shall pay the rent in advance for each month, on or before the seventh (7<sup>th</sup>) day of each English calendar month (the "Due Date") subject to deduction of taxes at source as may be applicable from the total amount of rent.*

*The Rent shall be paid by the Lessee by means of a cheque payable at Chennai in favour of the Lessor. The Lessee shall also issue separate certificates for income tax deducted at source to the lessor and shall deposit the tax deducted in the relevant Government account. The Lessor shall issue receipts for the Rent received from the Lessee for the relevant calendar month.*

*The Rent for the Initial Term and the Renewal Terms, as applicable, shall be exclusive of the electricity charges, telecommunication usage charges and water consumption charges and the same shall be paid by the Lessee directly as per actual or the same raised by the appropriate authorities."*

In para 2 of TERMS OF LEASE AND RENEWAL in para 2.1, The parties agree that.....**"The Parties hereby specifically agree that any such renewal shall be by way of a fresh lease deed to be executed by the parties and registered before the applicable Sub-Registrar. The Stamp Duty and the Registration Charges, if any on such deed shall be shared between the Lessor and the Lessee."**

Appellant has produced before the appeal authorities the addendum to the lease rent agreement, however in view of the above para, the same cannot be

taken as the authentic piece of evidence as the addendum is not registered before the applicable Sub-Registrar and deed entered into is made effective with effect from 01.01.2009 though the date of seal on the stamp paper is 03.03.2009. Therefore the reduction in the rent from Rs.3,10,000/- per month to Rs,2,30,000/- per month is not acceptable to decide the actual rent received from the rented property u/s. 23 of the Act. On this background the action of the AO in treating lettable value of the property at Rs.3,10,000/- per month finds reasonable as it is supported by a lease deed agreement and is confirmed. Accordingly the ground of appeal on this issue is **dismissed**.

Aggrieved, the assessee is in further appeal before us.

7. Upon careful consideration of impugned order, so far as the issue of disallowance of interest is concerned, we find that Ld. CIT(A) has made pertinent factual observation. The initial loan taken by the assessee to purchase / construct the property under consideration was fully satisfied except to the extent of Rs.1.75 Lacs as on 31.03.2005. The Ld. AO has already allowed interest to that extent. Therefore, we concur with the findings of Ld. CIT(A), in this regard and accordingly, dismiss the grounds raised by the assessee.

8. So far as the computation of ALV is concerned, we find that the reduction in rent is duly evidenced by addendum to rent agreement. It appears that both the parties have acted upon the terms of the addendum and therefore, there is no reason to disregard this document. The assessee has also submitted that reduction in rent is evidenced by TDS certificates. We find that this is a factual matter and require re-examination. Simple because the addendum was not registered, the said fact alone would not be sufficient to reject the claim of the assessee. Therefore, we restore this issue back to the file of Ld. CIT(A) for factual examination and decide the matter afresh after affording opportunity of hearing to the assessee. The assessee, in turn, is directed to

substantiate its claim. The grounds thus raised stand allowed for statistical purposes.

9. The appeal stand partly allowed for statistical purposes.

Order pronounced on 21<sup>st</sup> February, 2022.

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपाध्यक्ष / VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखक सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 21-02-2022  
EDN/-

**आदेश की प्रतिलिपि ँ प्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF