

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI**  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
**Before Shri V. Durga Rao, Judicial Member &  
Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No.631/Chny/2020  
निर्धारण वर्ष/Assessment Year: 2014-15

M/s. Capricorn Holdings Pvt. Ltd.,  
39, Burkit Road, T. Nagar,  
Chennai 600 034.

**[PAN:AABCC6655K]**

Vs. The Assistant Commissioner of  
Income Tax, Corporate Circle 1(2),  
Room No. 613, 6<sup>th</sup> Floor, 121,  
Mahatma Gandhi Road,  
Nungambakkam, Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri B. Ramakrishnan, FCA  
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 27.06.2022  
घोषणा की तारीख /Date of Pronouncement : 03.08.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 1, Chennai, dated 14.02.2020 relevant to the assessment year 2014-15 challenging confirmation of disallowance of interest expenses of ₹.59,49,330/-.

2. The appeal filed by the assessee is delayed by 55 days in filing the appeal before the Tribunal due to outbreak of COVID-19 pandemic and accordingly, the delay is condoned and admitted the appeal for

adjudication.

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2014-15 admitting total income of ₹.23,69,480/-. The case was selected for scrutiny under CASS and notice under section 143(2) of the Income Tax Act, 1961 [“Act” in short] dated 31.08.2015 was duly served on the assessee. Further, notice under section 142(1) of the Act with a detailed questionnaire was issued on 30.05.2016. On perusal of the computation of income, the Assessing Officer noticed that the assessee has claimed interest expenses of ₹.59,49,330/- under the head income from house property. A detailed analysis of the documents produced has revealed that M/s. Maurya Hotels (Madras) Private Limited is the borrower, M/s. Sundaram Home Finance Ltd. is the lender and the assessee M/s. Capricorn Holding Pvt. Ltd is confirming party. The Assessing Officer has observed that the amount has been borrowed by M/s. Maurya Hotels (Madras) Private Limited and the interest expenditure has to be met by that entity and the assessee company cannot claim any interest expenditure as the assessee was only a confirming party. From the loan agreement, the Assessing Officer noted that the loan was not

taken for the construction of house property. Accordingly, the Assessing Officer disallowed the interest expense claim of ₹.59,49,330/- and brought to tax. On appeal, the Id. CIT(A) upheld the order of the Assessing Officer.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By filing the details of financial statements, the Id. Counsel for the assessee has submitted that the assessee has taken loan from M/s. Maurya Hotels (Madras) Private Limited, who has borrowed from M/s. Sundaram Finance Ltd. It was further submission that the assessee has also filed the necessary certificate as required under section 24, 3<sup>rd</sup> proviso stating that the amount was borrowed for the purpose of construction of building belong to the assessee. By filing Memorandum of additional grounds of appeal, the assessee has claimed that

- a. The lower authorities, ought to considered the interest paid towards the amounts borrowed, construction of the building belonging to the Appellant, which building is used for the purpose of carrying on its business.
- b. The Lower Authorities should allow the claim either U/s. 24 or U/s. 37(1) of the Income Tax Act, 1961.

5. On the other hand, the Id. DR has strongly supported the orders

of authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book filed by the assessee. The case of the assessee is that the assessee has claimed interest paid towards loan taken for the purpose of construction of building belongs to the assessee from M/s. Maurya Hotels (Madras) Private Limited, who has borrowed from M/s. Sundaram Finance Ltd. The case of the Assessing Officer is that the amount has been borrowed by M/s. Maurya Hotels (Madras) Pvt. Ltd. and the interest expenditure has to be met by that entity and the assessee company cannot claim any interest expenditure. By referring to the paper book page 35, the Id. Counsel has submitted that M/s. Maurya Hotels (Madras) Pvt. Ltd. has confirmed the receipt of the interest on loan as on 31.03.2014. It was further submission that M/s. Maurya Hotels (Madras) Pvt. Ltd. is a substantial share holder of the assessee company and offered loan to the assessee by availing loan from M/s. Sundaram Home Finance Ltd. Therefore, the interest expense incurred by the assessee has to be allowed. We find force in the argument of the Id. Counsel. On perusal of the assessment order, we find that the Assessing Officer has not made any extensive enquiry

with M/s. Maurya Hotels (Madras) Pvt. Ltd. as to whether it has offered loan to the assessee company for the purpose of construction of building belongs to the assessee or called for any relevant details and verified. The assessment order is very cryptic. Accordingly, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to call for the details and verify as to whether M/s. Maurya Hotels (Madras) Pvt. Ltd. has offered loan to the assessee and decide the issue afresh in accordance with law by affording an opportunity of being heard to the assessee.

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

Order pronounced on 03<sup>rd</sup> August, 2022 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 03.08.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy 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.