

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

Before Sh. Saktijit Dey, Judicial Member

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

ITA No. 8651/Del/2019 : Asstt. Year : 2016-17

ACIT, Circle-21(1), New Delhi-110002	Vs	Religare Housing Development Finance Corporation Ltd., 2 nd Floor, Rajlok Building, 24, Nehru Place, New Delhi-110019
(APPELLANT)		(RESPONDENT)
PAN No. AAACM6533D		

Assessee by : Sh. Rohit Jain, Adv. &

Ms. Somya Jain, CA

Revenue by : Sh. Shankar Gupta, Sr. DR

Date of Hearing: 06.07.2022

Date of Pronouncement: 12.09.2022

ORDER

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

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-7, New Delhi, dated 01.08.2019.

2. Following grounds have been raised by the Revenue:

"1. Whether in facts and circumstances of the case, the Id. CIT(A) has erred in accepting the weighted average method adopted by the assessee instead of arriving at actual interest income by aggregating actual rate of interest and arriving at interest income earned under both the business segments.

2. Whether in facts and circumstances of the case, the Id. CIT(A) has erred in not enquiring about the average tenure of advancing loans under both the business segments instead of merely accepting the submission of the assessee.

3. Whether in facts and circumstances of the case, the Id. CIT(A) has erred in not arriving at

correct/true allocation of interest expenditure to both the business segments by following average rate of interest instead of weighted average method."

3. The assessee company was engaged in the business of providing long term finance for purchase or construction of residential houses in India. The assessee filed return of income on 17.10.2016 declaring an income of Rs.30,51,76,630/-.

4. The Id. CIT(A) apportioned the interest cost in all 3 business segments. The same has been done by the assessee following the orders is covered by the appellate orders of Id. CIT(A) in A.Y. 2012-13, A.Y. 2013-14 and A.Y. 2014-15.

5. The same issue stands adjudicated by the Co-ordinate Bench of Tribunal in the case of the assessee in ITA No. 6433/Del/2017 for A.Y. 2013-14 vide order dated 29.06.2021. The operative part of the order is as under:

"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. In the absence of any change in the factual content and proposition of the law, we decline to interfere with the order of the Id. CIT (A) on this issue.

7. In the result, the appeal of the Revenue is dismissed.
Order Pronounced in the Open Court on 12/09/2022.

Sd/-

(Saktijit Dey)
Judicial Member

Dated: 12/09/2022

Subodh Kumar, Sr. PS

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