

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.1831/Mum/2020
(A.Y. 2013-14)**

M/s Resources Realty Private Limited, 4 th Floor, Dheeraj Arma, Anant Kanekar Marg, Bandra (East), Mumbai – 400 051	Vs.	ACIT, Central Circle- 11(1)(1), Room No. 4, 3 rd Floor, Mittal Court, Nariman Point, Mumbai – 400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAECR0433R		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Mahita Nair

Date of Hearing	17.10.2022
Date of Pronouncement	21.10.2022

आदेश / O R D E R

Per Amarjit Singh (AM):

The present appeal filed by the assessee is directed against the order passed by the Id. CIT(A)-18, Mumbai which in turn arises from the order passed by the A.O u/s 143(3) r.w.s 144C(A) of the Act. The assessee has raised the following grounds before us:

“The Id. Commissioner of Income Tax-18, Mumbai (hereinafter referred to CIT(A)) has erred in law and in facts by disallowing proportionate interest expense amounting to Rs.1,93,50,000/- u/s 36(1)(iii) on loan taken from M/s Guardex Realtors Pvt. Ltd. on alleged ground that high interest bearing fund has been utilized for non business activity at lower interest rate, disregarding all the factual submission made during the appellate proceedings.

Your appellant craves to add, alter, amend or delete any grounds of appeal.”

2. This case was listed for hearing on 7 times but neither anybody has attended from the side of the assessee nor submitted any written submission, therefore, the appeal filed by the assessee is adjudicated after taking into consideration the material on record and hearing the ld. D.R.

3. Fact in brief is that return of income declaring total income of Rs.79,67,546/- was filed on 01.10.2013. The case was selected for scrutiny assessment and notice u/s 143(2) of the Act was issued on 02.09.2014. Later on the A.O had referred the case to the jurisdiction of Transfer Pricing Officer (TPO) for deciding the transaction with related party as per arms length price. Subsequently, the assessment proceedings were completed u/s 143(3) of the Act by disallowing interest expenses amounting to Rs.1,93,50,000/- u/s 36(1)(iii) of the Act. The A.O noticed that assessee has taken unsecured loan from various parties of Rs.88,00,63,464/-. Out of the total interest paid on these unsecured loan, the assessee had paid interest of Rs.2,74,58,630/- @ 16% to only one party namely M/s Gaurdex Realtors Pvt. Ltd. (GRPL) from whom the assessee had taken loan of Rs.18 crores. From the detail filed by A.O noticed that funds received from M/s Gaurdex Realtors Pvt. Ltd. was utilized for advancing loan to related party namely Wadhawan International Investments Ltd. (WIIL). The A.O found that assessee had received interest income @ 5.25% from Wadhawan International Investments Ltd. (WIIL) of Rs.6,08,19,278/- Therefore, the A.O asked the assessee to show cause why proportionate interest expenses @ 10.75% amounting to Rs.1,93,50,000/- shall not be disallowed. The assessee submitted that interest expenses had been incurred on loan borrowed

from M/s Gaurdex Realtors Pvt. Ltd. @ 16.5%. The process of the said loan has been used for further investment in Wadhawan International Investments Ltd. (WIIL) and the assessee had earned interest income @ 5.25% to the amount of Rs.6,08,19,278/- and stated that the same was at arms length price. However, the A.O observed that the loan was never utilized for the purpose of assessee's business but was used for making long term investment for the benefit of its sister concern, therefore, the A.O stated that such application of the loan cannot be termed as utilization for the purpose of business, therefore, excess interest paid @ 10.75% amounting to Rs.1,93,50,000/- was disallowed considering that same was not incurred for the purpose of business u/s 36(1)(iii) of the Act. After taking into consideration the detail and submission of the assessee the ld. CIT(A) held that the impugned loan was not advanced in the course of assessee's business and there was no commercial expediency of any sort as no plea on this ground has been taken neither before the A.O in the assessment proceedings nor before the ld. CIT(A) in the appellate proceedings. After taking into consideration the facts and circumstances of the case the ld. CIT(A) observed that impugned loan borrowed by the assessee was not utilized for the purpose of the business and the same was not eligible for deduction neither u/s 36(1)(iii) nor u/s 37 of the Act. Therefore, ld. CIT(A) has sustained the disallowance made by the A.O.

4. During the course of appellate proceedings before us neither the assessee had attended the hearing nor made any written submission to controvert the finding of ld. CIT(A). Therefore, taking into consideration the facts and material on record, we don't find any reason to interfere in the decision of ld. CIT(A). Therefore, the appeal of the assessee stand dismissed.

5. In the result, the appeal of the assessee stand dismissed.

Order pronounced in the open court on 21.10.2022

Sd/-
(Aby T Varkey)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 21.10.2022

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.