

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “एसएमसी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA**  
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 352/Kol/2022**  
**Assessment Year: 2012-13**

Louise Construction P. Ltd. (PAN: AAACL 8209 M)	Vs.	ITO, Ward-6(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	18.01.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	17.02.2023
For the Appellant/ निर्धारिती की ओर से	Shri Somnath Ghosh, Advocate
For the Respondent/ राजस्व की ओर से	Shri P. P . Barman, Addl. CIT Sr.DR

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-2, Kolkata (hereinafter referred to as the Ld. CIT(A)”) dated 24.04.2018 for the AY 2012-13.

2. The assessee has assailed the addition of Rs. 16,52,131/- confirmed by the Ld. CIT(A) which was made by the AO on account of disallowance of interest u/s 36(1)(iii) of the Act.

3. Facts in brief are that the assessee is engaged in the business of real estate construction and development and during the year filed the return of income on 29.09.2012 declaring total income of nil. The assessee is following project completion method. The assessee has incurred certain expenditures on the on-going project which were capitalized under the head project Work-in-progress which also included interest of Rs. 16,52,131/-. The assessee during the year has realized income of Rs. 34,75,000/- by way of interest which was also reduced from the capital work-in-progress. The details opening WIP, addition, deduction and closing WIP are extracted below:

INVENTORIES (WORK IN PROGRESS)				
PARTICULARS	Opening	Amount		Closing
		DEBIT	CREDIT	
ACCOUNTING CHARGES	52,000.00	12,000.00		64,000.00
ADVERTISEMENT	759,078.00			759,078.00
ARCHITECT	1,207,240.00			1,207,240.00
AUDIT FEES	97,006.00	16,000.00		113,006.00
BANK CHARGES	111,948.77	790.00		112,738.77
BRICKS	2,215,216.00			2,215,216.00
BROKERAGE & COMMISSION	640,574.00			640,574.00
BUILDING MATERIALS	8,334,272.76		1,078,500.00	7,255,772.76
Car Insurance	23,888.00			23,888.00
CEMENT	5,548,470.00			5,548,470.00
CIVIL WORK	2,097,196.00			2,097,196.00
Computer Exp		4,524.00		4,524.00
CONVEYANCE	8,711.00			8,711.00
CUBE TEST	6,698.00			6,698.00
DEPRECIATION	387,489.00	8,419.14		395,908.14
DEVELOPMENT FEE	80,180.00			80,180.00
DOOR LOCK	2,936.00			2,936.00
DRAINAGE DEVELOPMENT FEE	910,996.00			910,996.00
Drain & Drainage	92,000.00			92,000.00
ELECTRICAL GOODS	1,889,655.00			1,889,655.00
ELECTRICITY CHARGES	450,098.44			450,098.44
FILING FEES	41,900.00			41,900.00
Finance Charges on Car Loan	59,187.00			59,187.00
Fire Installation Work	105,943.00			105,943.00
FREIGHT & CARRIAGE	217,640.00			217,640.00
HOARDING MATERIALS	24,089.00			24,089.00
Inter Com Exp		20,000.00		20,000.00
INTEREST ON BIKE LOAN	2,825.00			2,825.00
INTEREST ON LOAN	13,506,509.00	1,652,131.00		15,158,640.00
INTEREST ON P.TAX		500.00		500.00
INTEREST ON TDS	3,352.00			3,352.00
IRON	8,891,057.40	485,506.00	1,254,780.00	8,121,783.40
LABOUR CHARGES	4,809,982.00			4,809,982.00
LAND SURVEY CHARGE	3,500.00			3,500.00
LEGAL & PROFESSIONAL CHAF	272,264.00			272,264.00
LIFT	1,060,000.00			1,060,000.00
LOAN PROCESSING CHARGES	407,740.00			407,740.00
MISC .EXPENSES	32,540.00	147.00		32,687.00
Motor Car Expenses	11,802.00			11,802.00
MUNICIPAL TAX	412,949.00			412,949.00
PETROL & DIESEL	6,476.00			6,476.00

	2		
Plumbing Goods	386,900.00	81,265.00	468,165.00
POSTAGE & STAMP	461.00		461.00
PRELIMINARY EXP. W/OFF	6,300.00	1,050.00	7,350.00
PRINTING & STATIONARY	109,714.00		109,714.00
PROFESSION TAX	21,659.00	10,000.00	31,659.00
PUMP HIRE CHARGES	17,646.00		17,646.00
REPAIR & MAINTENANCE	31,351.00		31,351.00
Sainting Goods & Fittings	8,510.00		8,510.00
SALARY & BONUS	136,405.00		136,405.00
SANCTION FEES	958,077.00		958,077.00
SAND	2,389,973.00	352,270.00	2,037,703.00
SECURITY SERVICES	339,117.00		339,117.00
SERVICE CHARGES(CESC)	4,966.00		4,966.00
SOIL	144,410.00		144,410.00
SOIL TEST	33,060.00		33,060.00
STACKING FEE	91,050.00		91,050.00
STAFF WELFARE	8,164.00		8,164.00
STONE CHIPS	5,483,862.00	789,450.00	4,694,412.00
STORES	643,473.00		643,473.00
Subscription Paid	2,300.00		2,300.00
TELEPHONE & MOBILE EXPENSE	183,315.00		183,315.00
TRADE LICENCE	2,940.00		2,940.00
Transformer	1,392,263.00		1,392,263.00
WASTE WATER CHARGE	42,490.00		42,490.00
WET-WORK CHARGE	151,749.00		151,749.00
WOOD.	1,710,564.00		1,710,564.00
<b>TOTAL</b>	<b>69,086,127.37</b>	<b>2,292,332.14</b>	<b>3,475,000.00</b>
			<b>67,903,459.51</b>

The AO during the course of assessment proceedings observed that the assessee has received income of Rs. 34,40,000/- against which the assessee has charged financial cost of Rs. 16,52,131/- which is not permissible under the Act and thus disallowed the claim u/s 36(1)(iii) of the Act resulting into an addition of Rs. 16,52,131/-. Whereas as a matter of fact the assessee is following project completion method as its system of accounting though the said income and expenses were routed through the profit and loss account but the same were capitalized accordingly. In other words the expenses incurred were added to the WIP and income received was reduced therefrom and closing WIP appeared in the Balance Sheet.

4. The Ld. CIT(A) simply dismissed the appeal of the assessee for the reason that the assessee has not filed any details before the Ld. CIT(A).

5. After hearing the rival submissions and perusing the material on record, we observe that the assessee is engaged in the business of real estate construction and

development and is following project completion. We are not restoring the file back to the Ld. CIT(A) for the reason of smallness of amount involved in this appeal as it would unnecessary waste the valuable time of the authorities. We have examined the details furnished by the assessee of capital work-in-progress as contained in the paper book and also examined the balance sheet, profit and loss account along with return filed. In our opinion based on the evidences as filed before us, the assessee has not charged any interest to the profit and loss account but capitalized the same under the head capital work-in-progress and also reduced the revenue of Rs. 34,50,000/- which is in accordance with the provisions of Act and also according to accounting standard issued by ICAI. In our opinion, the addition made by the AO is unwarranted and against the method of accounting followed by the assessee. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the disallowance.

6. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 17<sup>th</sup> February, 2023

Sd/-  
(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 17<sup>th</sup> February, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Louise Construction P. Ltd., C/o, S. N. Ghosh & Associates, Advocates, 2, Garstin Place, 2<sup>nd</sup> Floor, Suite No. 203, Off Hare Street, Kolkata-700001.
2. Respondent – ITO, Ward-6(2), Kolkata
3. Ld. CIT(A)-2, Kolkata (sent through e-mail)
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata