

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.516 & 517/PUN/2022
Assessment Years : 2017-18 & 2018-19

M/s. Mittal Vastu Rachana LLP, Mittal House, 2095, Vijaynagar Colony, Nilayam Theatre Chowk, Sadashiv Peth, Pune- 411030. PAN : AAYFM4503G	Vs.	DCIT, Central Circle- 2(2), Pune.
Appellant		Respondent

Assessee by : Shri Vinod Gupta
Revenue by : Shri Ramnath P. Murkunde

Date of hearing : 16.05.2023
Date of pronouncement : 17.05.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

These are the appeals filed by assessee against the separate orders of Id. Commissioner of Income Tax (Appeals)-12, Pune [‘the CIT(A)’] dated 07.06.2022 for the assessment years 2017-18 and 2018-19 respectively.

2. Since the identical facts and common issues are involved in both the above captioned appeals, we proceed to dispose of the same by this common order.

3. For the sake of convenience and clarity, the facts relevant to the appeal in ITA No.516/PUN/2022 for the assessment year 2017-18 are stated herein.

ITA No.516/PUN/2022, A.Y. 2017-18 :

4. Briefly, the facts of the case are that the appellant LLP is a partnership firm engaged in the business of builders and developers dealing in lands. The Return of Income for the assessment year 2017-18 was filed on 29.09.2017 disclosing Rs.Nil income. Subsequently, the search and seizure operations were conducted in the business premises of the appellant u/s 132 of the Income Tax Act, 1961 ('the Act') on 20.11.2018. Subsequently, a notice u/s 153A was issued to the appellant calling upon the assessee to file the return of income. In response to the said notice u/s 153A, the appellant had filed the return of income disclosing only income of Rs.74,18,568/- as against income shown in the original return of

income of Rs.1,74,26,460/-. The disparity of income between two returns of income is stated on account of excess claim for allowance of interest paid on the capital contribution made by the partners. The Assessing Officer had disallowed the same.

On appeal before the ld. CIT(A), the ld. CIT(A) confirmed the action of the Assessing Officer by holding that the interest on the capital contribution made by the partners can be only allowed at the rate of 12% per annum and the interest paid earlier cannot be allowed for deduction.

5. Being aggrieved by the order of the ld. CIT(A), the appellant is in appeal before us in the present appeal.

6. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the allowability of interest on the capital contribution made by the partners. The allowance of interest on the capital contribution made by the partners is governed by the provisions of section 40(b) of the Act. The provisions of section 40(b) provides that the interest on the capital contribution made by the partners of the firm can be allowed

at the rate of 12% per annum subject to condition that the same is authorized by the partnership deed. Even if, the partnership deed authorizes payment of interest at higher rate of interest than 12%, the same cannot be allowed as deduction. Therefore, the findings of the Id. CIT(A) are based on proper appreciation of facts and law and, accordingly, we do not find any merits in the present appeal filed by the assessee.

7. In the result, the appeal filed by the assessee in ITA No.516/PUN/2022 for A.Y. 2017-18 stands dismissed.

ITA No.517/PUN/2022, A.Y. 2018-19 :

8. Since the facts and issues involved in both the above captioned appeals of the assessee are identical, therefore, our decision in ITA No.516/PUN/2022 for A.Y. 2017-18 shall apply *mutatis mutandis* to the appeal of the assessee in ITA No.517/PUN/2022 for A.Y. 2018-19 respectively. Accordingly, the appeal of the assessee in ITA No.517/PUN/2022 for A.Y. 2018-19 stands dismissed.

9. To sum up, both the above captioned appeals of the assessee stands dismissed.

Order pronounced on this 17th day of May, 2023.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 17th May, 2023.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-12, Pune.
4. The Pr. CIT (Central), Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.