

आयकर अपीलिय अधिकरण  
मुंबई पीठ "सी" मुंबई  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री ओम प्रकाश कांत, लेखाकार सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C" BENCH  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
आ.आ.सं. ५६०/मुंबई/२०२३ (नि.वं. २०१८-१९)  
ITA No.560/MUM/2023 (A.Y.2018-19)

Deputy Commissioner of Income Tax  
Central Circle-2(4)  
8<sup>th</sup> Floor, Room No.802,  
Aayakar Bhavan,  
M. K. Road,  
Mumbai-400 020

..... अपीलार्थी/Appellant

बनाम Vs.

M/s. Parinee Housing Private Limited  
C-38 & 39, G Block Crescenzo, BKC,  
Bandra East,  
Mumbai-400 051  
PAN No. AAGCP0245D

..... प्रतिवादी/Respondent

प्रत्याक्षेप.सं. ४२/मुंबई/२०२३ (नि.वं. २०१८-१९)  
CO No.42/MUM/2023 (A.Y.2018-19)

M/s. Parinee Housing Private Limited  
103, 1st Floor, Smag House, Plot No.157A,  
Sarojini Road Extn, Opp. Darshana Apt.  
Vile Parle West,  
Mumbai-400 056  
PAN No. AAGCP0245D

..... अपीलार्थी/Appellant

बनाम Vs.

Deputy Commissioner of Income Tax  
Central Circle-2(4)  
8<sup>th</sup> Floor, Room No.802,  
Aayakar Bhavan,  
M. K. Road,  
Mumbai-400 020

..... प्रतिवादी/Respondent



अपीलार्थी द्वारा / Appellant by : S/Shri Rajan Vora & Nikhil Tiwari  
प्रतिवादी द्वारा / Revenue by : Ms. Sudha Ramchandran, Sr. AR

सुनवाई की तिथि / Date of hearing : 06/06/2023  
घोषणा की तिथि / Date of pronouncement : 23/06/2023

### आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-48, Mumbai (hereinafter referred to as "the CIT(A)") dated 15.12.2022, for the assessment year 2018-19.

2. The solitary issue raised by the Revenue in appeal is against the findings of CIT(A) in deleting the addition of interest on the loans advanced to the directors and sister concern/related parties. The assessee has filed Cross Objection in appeal filed by the Revenue supporting the order of First Appellate Authority.

3. Ms. Sudha Ramchandran representing the Department submitted that assessee has advanced interest free loans to the directors that is Shri Vipul Shah and Shri Dhaval Shah and a group company M/s. Parnee Homes Pvt. Ltd. No evidence has been brought on record by the assessee to show that the loans advanced to the directors and the sister concern are on account of business exigency. The Assessing Officer (AO) has rightly attributed interest at the rate of 12% on the loans advanced to related parties and made addition of Rs.4,12,28,051/-. The assessee has advanced interest free loans to the Directors in violation of section 185 of the Companies Act. The Id. Departmental Representative



(DR) vehemently supported the assessment order and prayed for reversing the findings of CIT(A) on this issue.

4. Per contra, Shri Rajan Vora appearing on behalf of the assessee emphatically supported the impugned order and prayed for dismissing the appeal of Revenue. The Id. Authorised Representative (AR) submits that the assessee is having interest free funds are much more than interest free loans advanced to directors and the group concern. He further submitted that once the assessee has been able to show that interest free funds are sufficient to cover interest free advances, no addition on account of notional interest can be made by the AO. To substantiate availability of own interest free funds, he referred to the Balance Sheet as on 31.03.2018 of the assessee at page 4 of the Paper Book. He further draws our attention to the notes forming part of the financial statement for the year ended 31.03.2018 Shedule-20 giving details of the related parties' transactions. In support of his contentions, the Id. AR placed reliance on the decision in the case of assessee's group company Parinee Realty Pvt. Ltd. vs. ACIT in Writ Petition No. 3638 of 2021 decided on 19.01.2022 by Hon'ble Bombay High Court.

5. We have heard the submissions made by rival sides and have examined the orders of authorities below. Undisputedly, the assessee has advanced interest free loans to the related parties as under:

Sr. No.	Name/Party	Loan Given (Rs.)
1	Shri Vipul Shah	16,51,34,319
2	Shri Dhaval Shah	17,83,10,040
3	Parinee Homes Pvt. Ltd.	1,22,734
<b>Total</b>		<b>34,35,67,093</b>



Shri Vipul Shah and Shri Dhaval Shah are the directors of the assessee company, M/s. Parinee Homes Pvt. Ltd. is a group company. A close examination of the Balance Sheet as on 31.03.2018 shows availability of sufficient interest free funds with the assessee to fund the loans advanced to related parties. As against interest free loans advanced to related parties Rs.34,35,67,093/-, interest free funds to the tune of Rs.72,09,58,658/- are available with the assessee. The availability of interest free funds with the assessee to cover interest free loans advanced to related parties has not been disputed by the Revenue. Once, the assessee has been able to substantiate availability of sufficient interest free funds, there is no valid reason to make addition of notional interest on advances to related parties. Insofar as the violation of the Companies Act in advancing loans to the Directors u/s 185 of the Companies Act is concerned, infringement of said section, if any has no implication under this Act. The assessee is liable for the consequences for infraction of any provisions under the relevant Act. We find no cogent reason to interfere with the impugned order.

6. In the result, appeal of the Revenue is dismissed, being devoid of any merit.

**CO No.42/Mum/2021 (AY. 2018-19)**

7. The assessee has filed Cross Objections supporting the order of CIT(A). Since, we have dismissed appeal of the Revenue, Cross Objections filed by the assessee have become infructuous, hence, dismissed as such.



8. In the result, Appeal of the Revenue and Cross Objections by the assessee are dismissed.

Order pronounced in the open court on Friday the 23<sup>rd</sup> day of June 2023.

**Sd/-**

(OM PRAKASH KANT)

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/Mumbai,

दिनांक/Dated: 23/06/2023

*Mahesh R. Sonavane*

**Sd/-**

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER



**प्रतिलिपी अग्रेषित Copy of the Order forwarded to:**

1. अपीलाथी/The Appellant ,
2. प्रतिवादी/The Respondent.
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधी, आय. अपी. अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाईल/Guard file.

BY ORDER,

//True Copy//

(Dy. /Asst. Registrar)/  
Sr. Private Secretary  
**ITAT, Mumbai**