

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.4605/DEL/2018
Assessment Year 2014-15

Tewari and Gangahar Infrastructure Pvt. Ltd. Tewari House, 11 B/8, Pusa Road, New Delhi.	Vs.	ACIT, Circle-25(2), New Delhi.
TAN/PAN: AACCT2615F		
(Appellant)		(Respondent)

Appellant by:	Shri Manish Malik, Adv Shri Pankaj Jain, ITP		
Respondent by:	Shri Anuj Garg, Sr.DR		
Date of hearing:	13	09	2023
Date of pronouncement:	20	09	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-IX, New Delhi ['CIT(A)' in short] dated 31.05.2018 arising from the assessment order dated 29.12.2016 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15.

2. As per the grounds of appeal, the assessee has challenged the disallowance of interest of secured loan stated to be incurred for the purposes of business amounting to Rs.28,80,527/-.

3. Briefly stated, the assessee filed return of income declaring loss of Rs.33,22,070/- for the Assessment Year 2014-15 in question.

The return so filed was subjected to scrutiny assessment. In the course of the scrutiny assessment, the Assessing Officer *inter alia* observed that the assessee-company is in the process of developing agricultural land located at an outskirts of Amritsar for the purposes of residential colony having two projects namely, Mega project and Global Project. The assessee-company has obtained secured loan from NBFC namely, Reliance Capital Ltd. to complete the projects in hand and has incurred interest on such loan taken for the purposes of development of land in the year 2008. The Assessing Officer thus observed that the interest expenses to the tune of Rs.28,80,527/- are attributable to the ongoing development projects and thus are capital in nature and hence wrongly claimed to be in revenue field. The interest expenses are thus disallowed.

4. Aggrieved, the assessee preferred appeal before the CIT(A). The CIT(A) however declined for any relief .

5. Further aggrieved, the assessee has knocked the door of the Tribunal.

6. When the matter was called for hearing, the Id. counsel for the assessee at the outset referred to the sanctioned letter from the NBFC, Reliance Capital Ltd. to submit that the company has obtained license for development of MEGA City from Punjab Urban Development Authority (PUDA) for development of 121.08 acres of land and the aforesaid loan from Reliance Capital Ltd. was utilized for disbursement against demand note raised by PUDA. The MEGA City Project was the only project at the relevant time and the other project namely, Global City had not commenced, the loan was thus solely utilized for MEGA City Project. In this backdrop, the Id. counsel further submitted that the assessee has generated revenue income from the sale of inventory in MEGA City Project and has

been duly accounted as income from revenue operations. The corresponding interest cost attributable and linked to such revenue income was thus rightly claimed as revenue expenditure. The Id. counsel next submitted that similar interest of different amount were debited in Financial Year 2007-08 onwards and the same were allowed against the revenue generated from the MEGA City Project in all these years. The assessment under Section 143(3) were carried out for Assessment Year 2015-16 as well as 2017-18 and the interest expenses claimed in those years were also allowed and therefore, the doctrine of principle of consistency should not be disturbed without any tangible reason. The Id. counsel also referred to the judgment as rendered in the case of *CIT vs. Lokhandwala Construction Inds. Ltd. (2003) 260 ITR 579 (Bom)* for the proposition that where the assessee-company was engaged in construction of building and undertook a project and obtained certain loans for such work in progress and where the project obtained constituted stock-in-trade, the interest paid on borrowed capital was allowable deduction under Section 36(1)(iii) of the Act. The Id. counsel submitted that the facts are identical in the present case and the assessee has also shown the inventory in the nature of trading asset. The Id. counsel thus submitted that the respective orders of both the lower authorities suffers from the vice of misunderstanding of facts and law and thus requires to be modified.

7. The Id. DR for the Revenue, on the other hand, relied upon the order of the authorities below.

8. We have considered the rival submissions and perused the material available on record.

9. The question before us is whether the interest expenses incurred are capital in nature and requires to be capitalized with the

cost of the development project or whether such interest expenses can be treated as revenue expenses as claimed by the Assessee.

10. On appraisal of the facts brought out on record on behalf of the assessee, we observe that the interest expenses is being claimed from last several years and is being claimed in the subsequent assessment years as well. The Revenue has accepted the stand of the assessee that interest expenses incurred are revenue in nature in the identical facts situation in all these years except the assessment year 2014-15 in question. Some of the assessment has been subjected to scrutiny and the assessment has been framed under Section 143(3) of the Act. We also simultaneously notice that the assessee has declared the inventory of the MEGA City Project as current asset/trading asset in the ordinary course of the business. The revenue generated from the project has been accounted for as revenue income in different assessment years based on the sales carried out.

10. Under these circumstances, we hardly see any logic for denying the benefit of interest expenses incurred as revenue expenditure in terms of Section 36(1)(iii) of the Act. The action of the authorities below are thus unfounded in law. We thus set aside the order of the CIT(A) and reverse the action of the Assessing Officer and consequently restore the stand of the assessee.

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

Order pronounced in the open Court on 20/09/2023

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: /09/2023

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**