

**IN THE INCOME TAX APPELLATE TRIBUNAL ‘F’ BENCH, MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL, JM AN  
SHRI OMKARESHWAR CHIDARA, AM**

ITA No.993/Mum/2023  
(Assessment Year: 2015-16)

V Ten Realty Private Limited V10 Residency, Ground Floor, Near Kankavati Apartment, Rambaug Lane No.4 End,Chikanghar, Kalyan (W), Thane-421 301	Vs.	DCIT, Circle 14(3)(1) Mumbai
PAN/GIR No. AADCV 9641 E		
<b>(Assessee)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	Shri Subodh Ratnaparkhi
<b>Respondent by</b>	:	Ms. Rajeshwari Menon
<b>Date of Hearing</b>	:	29.07.2024
<b>Date of Pronouncement</b>	:	31.07.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2015-16.

2. The assessee has challenged this appeal on the following grounds:

1. *The Hon. CIT(A) erred in dismissing the appeal ex-parte for alleged non-compliance to appeal notices, inspite of the appellant being not aware of the notices issued and for this reason the order dismissing the appeal was not justified and may kindly be over turned and set aside.*
2. *The Hon. CIT (A) erred in dismissing the appeal ex-parte, for alleged non-compliance to hearing notices, without deciding the appeal on the merits and for this reason also the order of the Hon. CIT(A) is bad-in-law and required to be set aside.*
3. *The Hon. CIT (A) erred in confirming the addition of Rs.37,10,502/- made by the Id AO by disallowing interest expenditure debited to P & L account, which action of Id AO is not as per law and the consequent addition may kindly be deleted.*

3. The brief facts are that the assessee company is engaged in the business of real estate activities with owned and leased properties. The assessee had e-filed its return of income on 30.09.2015, declaring total income at Rs.36,77,900/- and computed book profit u/s. 115JB at Rs.36,70,270/-. The assessee's case was selected for scrutiny assessment and notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee.

4. The Id. Assessing Officer ('A.O.' for short) observed from the balance sheet that the assessee has taken unsecured loans of Rs.4,97,24,452/- from its Directors and has debited interest expenses of Rs.37,10,502/- in profit and loss account. The Id. A.O. passed the assessment order u/s. 143(3) of the Act on 16.12.2017, determining the total income at Rs.73,88,399/- by disallowing the interest expenditure as being part of the cost of the project.

5. The assessee was in appeal before the first appellate authority, challenging the order of the Id. A.O.

6. The Id. CIT(A) vide an *ex parte* order upheld the order of the Id. A.O. on the ground that the assessee has failed to furnish any explanation or supporting documents to substantiate its claim.

7. The assessee is in appeal before us, challenging the order of the Id. CIT(A).

9. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has been non compliant throughout the proceeding before the first appellate authority and had failed to furnish any explanation

along with any supporting documentary evidence in support of its claim. The Id. CIT(A) has also not decided the issue on the merits of the case for the above mentioned reason. In view of the same, we are of the considered opinion that the assessee shall be given one more opportunity to present its case before the first appellate authority in view of the principles of natural justice with the direction that the assessee should cooperate with the proceeding before the Id. CIT(A) without any undue delay.

10. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 31.07.2024*

Sd/-

(Omkareshwar Chidara)  
Accountant Member

Mumbai; Dated : 31.07.2024

Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)  
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai