

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.721/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2016-17)**

JCIT(OSD) Corporate Circle-1(1) Chennai.	<b>बनम</b> / Vs.	M/s Casagrand Premier Builder Limited (earlier known as M/s. Casa Grand Builder P. Ltd.) 5 <sup>th</sup> floor, NPL Devi, New No.111. Old No.59. LB Road, Thiruvanmiyur, Chennai-600 041
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. <b>AACCC-2758-A</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओर से/ <b>Appellant by</b>	:	Shri V.Nanda Kumar – Ld. CIT-DR a/w Shri D. Hema Bhupal (JCIT)-Ld. Sr. DR
प्रत्यर्थी की ओर से/ <b>Respondent by</b>	:	Shri B. Ramakrishnan, (CA)- Ld.AR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	25-06-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	08-08-2024

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1.1 Aforesaid appeal by Revenue for Assessment Year (AY) 2016-17 arises out of an order passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 08-03-2023 in the matter of an assessment framed by the Ld. AO u/s.143(3) of the Act on 30-12-2018.

1.2 The Registry has noted delay of 11 days in the appeal, the condonation of which has been sought by Ld. CIT-DR. Considering the

period of delay, we condone the delay and admit the appeal for adjudication on merits.

### 1.3 The grounds of appeal raised by the Revenue read as under:-

1. The order of the CIT(A) is contrary to law, facts and circumstances of the case.
2. Whether the Ld. CIT(A) has erred in giving relief to the assessee by deleting the disallowance of interest expense claimed by the assessee, based on fresh evidence submitted for the first time before the CIT(A) without giving opportunity to the AO under Rule 46A of the Income Tax Rules, for verifying the said claim of the assessee based on evidences filed afresh during the appellate proceedings?
3. Whether the CIT(A) has erred in not adjudicating the issue of disallowance of interest expenses made to the tune of Rs.6,90,00,000/- with regard to Term Loan availed for the purpose of providing 'Exit for Investor' which is to be treated as 'Capital Investment'.

As is evident, the sole issue that fall for our consideration is disallowance of interest expenses.

1.4 The Ld. CIT-DR advanced arguments supporting the assessment order whereas Ld. AR relied on findings rendered in impugned order. The case was put up for clarification which was responded to by both the sides. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under. The assessee being resident corporate assessee is stated to be engaged in construction activities.

### **Assessment Proceedings**

2.1 It transpired that the assessee provided interest-free advances to its subsidiary entities to the extent of Rs.95.44 Crores which are tabulated on Page No.2 of the assessment order. At the same time, the assessee claimed interest expenses of Rs.12.14 Crores out of which an amount of Rs.5.05 Crores was on account of interest paid towards term loan sanctioned by JM Financial Credit Solutions Ltd. On examination of the loan sanction letter, Ld. AO observed that the term loan was divided

into three parts out of which two parts had no relevance to the business of the assessee. The same was tabulated as under: -

<b>Loan</b>	<b>Amount</b>	<b>Purpose</b>	<b>Interest rate</b>
Term Loan I	Rs. 40 Crores	Exit for Investor	17.25%
Term Loan II	Rs. 20 Crores	Project Construction (Cherry pick)	14.75%
Term Loan III	Rs. 60 Crores	Project Construction (Elan)	14.75%

2.2 Accordingly, Ld. AO proceeded to compute interest disallowance. It was noted by Ld. AO that Term Loan-I was for 'exit for investor' which had no relevance to the assessee's business and it was a capital expenditure. The Term loan-II was for construction project by the name 'cherry pick project' which was not assessee's project but it was the project undertaken by assessee's group concern M/s Casa Grande Shelter LLP. No disallowance was proposed on Term Loan-III. Accordingly, Ld. AO computed impugned interest disallowance of Rs.9.85 Crores which was calculated as 17.25% on Rs.40 Crores and 14.75% on Rs.20 Crores. Aggrieved, the assessee preferred further appeal before first appellate authority.

### **Appellate Proceedings**

3.1 The assessee submitted that though the loan was availed by the assessee only from August and September, 2015, Ld. AO erred in computing interest for whole year. Further, aggregate interest expenditure as claimed by the assessee was Rs.5.05 Crores as against impugned disallowance of Rs.9.85 Crores which could not be justified.

3.2 The assessee also submitted that its group concern, Casa Grande Shelter LLP was in requirement of loan for business purposes. Since it was incorporated very recently, its financial position was not strong and therefore, the assessee availed loans and advanced it to group concern.

It was also stated that that it had, in fact, charged interest on loans so granted to this concern. In support, the copy of ledger extract was also furnished. It was pointed out that the interest charged from the group concern was reduced from the finance cost incurred by the assessee. Accordingly, the assessee prayed for deletion of impugned disallowance.

3.3 Concurring with assessee's submissions, Ld. CIT(A) deleted the impugned disallowance. It was observed by Ld. CIT(A) that the interest claimed by the assessee on the above loan was Rs.5.05 Crores plus processing fees of Rs.0.60 Crores whereas Ld. AO wrongly assumed it to be Rs.9.85 Crores. These details were already submitted by the assessee before Ld. AO but the same were not considered. The assessee credited interest income and offered it to tax. Therefore, the disallowance was held to be not sustainable. Aggrieved, the revenue is in further appeal before us.

#### **Our findings and Adjudication**

4. We find that during the course of assessment proceedings, the assessee could not controvert the factual findings rendered by Ld. AO since the assessee did not file any response to the notices issue by Ld. AO in this regard. The Ld. AO noted that the assessee made advances to its subsidiaries for Rs.95.44 Crores whereas the assessee claimed interest expenses of Rs.12.14 Crores which include interest paid to an entity by the name M/s JM Financial Credit Solutions Ltd. On examination of the loan sanction letter, it was noted by Ld. AO that Term Loan-I was for 'exit for investor' which had no relevance to the assessee's business and it was a capital expenditure. The Term loan-II was for construction project by the name 'cherry pick project' which was not assessee's project but it was the project undertaken by assessee's

group concern M/s Casa Grande Shelter LLP. No disallowance was proposed on Term Loan-III. Accordingly, Ld. AO computed impugned interest disallowance of Rs.9.85 Crores which was calculated as 17.25% on Rs.40 Crores and 14.75% on Rs.20 Crores.

5. During appellate proceedings, the assessee submitted that the loan was availed for part of the year and therefore, Ld. AO erred in computing disallowance for whole of the year. Another submission was that expenditure claimed was Rs.5.05 Crores as against impugned disallowance of Rs.9.85 Crores. It was also submitted that its group concern, Casa Grande Shelter LLP was in requirement of loan for business purposes. Since it was incorporated very recently, its financial position was not strong and therefore, the assessee availed loans and advanced it to group concern. It was also stated that that it had, in fact, charged interest on loans so granted to this concern. In support, the copy of ledger extract was also furnished. It was pointed out that the interest charged from the group concern was reduced from the finance cost incurred by the assessee. We find that all these factual submissions have been accepted by Ld. CIT(A) without confronting the same to Ld. AO in term of Rule 46A. The adjudication of Ld. CIT(A) is centered around the fact that the assessee had claimed expenditure of Rs.5.05 Crores plus processing fees of Rs.0.60 Crores whereas Ld. AO wrongly assumed it to be Rs.9.85 Crores. Another finding is that the assessee credited interest income and offered it to tax. All these facts were new facts and the same should have, therefore, been confronted to Ld. AO. No finding has been rendered on the issue of interest disallowance against Term Loan-I availed by the assessee which was treated as capital investment by Ld. AO. Therefore, considering the entirety of facts

and circumstances, we set aside the impugned order and restore the issue of interest disallowance back to the file of Ld. AO for de novo adjudication. The assessee is directed to substantiate its case. All the issues are kept open.

6. The appeal stands allowed for statistical purposes.

*Order pronounced on 8<sup>th</sup> August, 2024*

**Sd/-**

**(MAHAVIR SINGH)**

उपाध्यक्ष / **VICE PRESIDENT**

चेन्नई Chennai; दिनांक Dated : 08-08-2024

DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Chennai.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य / **ACCOUNTANT MEMBER**