

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR "SMC" BENCH : NAGPUR

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

I.T.A.No.293/NAG/2025
(Assessment Year 2016-17)

Ganesh Vijay Panpaliya Vaishno Devi Nagar Near Prakash Provisions Yavatmal 445 001 PAN : AOFPP1149A	vs.	Income Tax Officer Ward-1, Yavatmal
(Appellant)		(Respondent)

For Assessee :	Shri K.P. Dewani
For Revenue :	Shri Surjit Kumar Saha

Date of Hearing :	24.06.2025
Date of Pronouncement :	24.06.2025

ORDER

This appeal has been preferred by the assessee against the order dated 31/03/2025 impugned herein passed by the ADDL/JCIT(A)-6, Chennai [in short, "Ld.Commissioner"] u/sec. 250 of the Income Tax Act, 1961 (for short, "the Act") for the Assessment Year (for short, "AY") 2016-17.

2. The impugned order, *prima-facie*, appears to be *ex-parte*, however, learned counsel Shri Dewani by drawing attention of this Court has substantiated the claim that the assessee on two occasions had sought for adjournments, one on personal reason, second on for collection of certain information to prepare submissions. However, Ld. Commissioner without taking into consideration the adjournments filed by the assessee, ultimately affirmed the additions made by the Assessing Officer on account of disallowances u/sec. 36(1)(iii) of ₹ 9,75,495/-, interest on VAT of ₹4,443/- and u/sec. 40(a)(ia) of ₹ 1,720/-. The assessee is not disputing the additions of ₹ 4,443/- & ₹ 1,720/- on account of interest on VAT and disallowance u/sec. 40(a)(ia) of the Act respectively. However, challenging the order on the addition made u/sec. 36(1)(iii). Though the impugned order is *ex-parte* and the Ld. Commissioner by taking into consideration the determination made by the Assessing Officer, has affirmed the aforesaid addition. However, it is a fact, as duly recorded by the Ld. Commissioner in the impugned order that the assessee is engaged in the business of real estate and has purchased number of plots in earlier and current year with an intention to trade out of borrowed funds. The plots purchased were stock-in-trade, but not as investment, but still the Assessing Officer treated the amount of ₹93,08,565/- as investment, but not as stock-in-trade and ultimately disallowed the interest to the tune of ₹ 9,75,495/- by side-lining the substantive claim of the assessee *qua* stock-in-trade. As admittedly the assessee is regularly purchasing the plots for stock-in-trade as it is not in denial and thus, treating the interest expenses of ₹9,75,495/- u/sec. 36(1)(iii) of the Act is un-sustainable. Thus, this Court is inclined to delete the aforesaid addition, by allowing the instant appeal.

3. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 24.06.2025.

Sd/-
(Narender Kumar Choudhry)
Judicial Member

vr/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned.
4.	D.R. ITAT, Nagpur Bench, Nagpur.
5.	Guard File.

By Order

//True Copy //

Sr. Private Secretary,
ITAT, Nagpur Bench.