

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI. SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.635/Bang/2025
Assessment Year : 2016-17

M/s. Reddy Housing Pvt. Ltd., #133/1 The Residency, 2 nd Floor Residency Road, H No.36B, Bommegowda Building, Paduvalu, Hippe Holenarasipur, Hassan– 573 211, Karnataka. PAN : BSOPS 2078 N	Vs.	ITO, Ward - 2, Hassan.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Narendra Sharma Adv
Revenue by	:	Shri. Balusamy N, JCIT(DR)(ITAT), Bangalore.

Date of hearing	:	12.11.2025
Date of Pronouncement	:	18.12.2025

ORDER

Per Laxmi Prasad Sahu, Accountant Member :

This is an appeal filed by the assessee against the ex-parte Order passed by the learned CIT (NFAC), vide DIN ITBA/NFAC/S/250/2023-24/1060239254(1) dated 30.01.2024.

2. Briefly stated facts of the case are that assessee filed return of income declaring at income of Rs.26,99,929/-. The case was selected for scrutiny, accordingly a notice u/s 143(2) dated 10.07.2017 was issued and served on the assessee, subsequently other statutory notices were issued to the assessee. In response to the questionnaire issued under section 142(1) of the Act assessee

filed its reply. From the submissions it was noticed that assessee has taken short term borrowing of Rs.1,24,13,95,349/-. The sum was Rs.75,60,88,428/- at the beginning of the year. Further, from the balance sheet it was seen that the assessee has given loan and advances to the related parties to the tune of Rs.21,59,39,832/- and the assessee has debited amount of Rs.21,01,12,168/- under the final cost as bank charges and the entire financial expenses has been claimed as direct project cost during the year as evidenced from note 15 of the financial statement. In this regard, show cause notice was issued to the assessee on 19.12.2018 and the AO noted that huge loan and advances given to third parties therefore interest income should have been increased during the year. However, this is not the case. Hence, it is held that assessee has given interest free loan to its related parties after taking the borrowings and limited interest expenses in its books. After considering the submissions, AO applied section 36(1)(iii) of the Act and calculated disallowance of Rs.3,65,48,861/-.

3. Further, on scrutiny of accounts it is observed that assessee had accumulated reserves of Rs.5,91,650/-. Assessee has given loan to the holding company M/s. Reddy Structures Pvt. Ltd. From the financial statements, it was seen that company is having 50% of the share holding in the assessee company. Accordingly AO disallowed under section 2(22)(e) of the Act as deemed dividend and added back into the income of the assessee.

4. Aggrieved from the above Order, assessee filed appeal before learned CIT(A). The learned CIT(A) issued various notices from time to time. Subsequently, on 24.01.2019 appeal was migrated to NFAC in terms of Notification No.76/2020 vide F.No.370142/33/2020-TPL dated 25.01.2020 subsequently vide CBDT Income Tax Notification No.139/2021 dated 28.12.2021. The learned CIT(A) issued notices on several dates but there was

no response from the assessee's side. Thereafter learned CIT(A) after considering the materials available before him decided the appeal and confirmed the Order of AO observing that *“Thus it is evident that the advances made were out of the borrowed and interest bearing funds of the appellant which is a fact which has not been disputed by the appellant in its submissions. Secondly, only because the funds have been provided to the holding company/related companies, does not automatically lead to the inference that there is commercial expediency. Whether or not there was commercial expediency or not is a matter of fact which depends on the facts of each and every case individually. It has to be specifically shown that there was a business reason for advancing the monies to the holding company/related parties, and in doing so, the appellant was furthering its own business interests and operating at arms length as it would be expected to do when dealing with unrelated related entities. This depends primarily on the utilisation of the funds by the holding company and has to be directly related to the benefits which would accrue to the appellant company from such transactions. The appellant has failed to prove this either during the assessment proceedings or in the instant appellant proceedings.”*

5. Aggrieved from the above Order, assessee filed appeal before the Tribunal.

6. The learned Counsel reiterated the submissions made before the lower authorities by way of statement of facts and further he referred to the book entry made in the books and strongly submitted that loans / advances given was to our holding company M/s Reddy Structures Pvt. Ltd.in the course of business as advance of the related parties which is evidenced from the journal entry passed and he referred to the Paper Book Page Nos.42 to 75 and submitted that these loans were given for incurring expenditures for the

company. He further submitted that our holding company handles our lot of our transactions including land procurement and many times our current account runs credit balance also (excess funds received from holding company.) for which we don't pay interest. He relied on the judgment of Hon'ble Apex Court in the case of S. A Builders Ltd., Vs. CIT(A), Chandigarh reported in [2007] 158 Taxman 74 (SC) and further submitted that if the loans and advances are given for commercial expediency no addition can be made under section 36(1)(iii) of the Act.

7. On the other hand, learned DR relied on the Order of lower authorities and submitted that assessee has very small reserve therefore it is clear that loan has been given to the related parties out of interest bearing funds. Therefore disallowance under section 36(1)(iii) of the Act is clearly attracted.

8. Considering the rival submissions and perusing the entire materials available on record and Orders of authorities below, we noted that here the dispute is regarding disallowance made towards proportionate interest under section 36(1)(iii) of the Act on the interest free loan given to the related parties. The assessee has journal entries passed in the books and narrations made in the journal entries regarding the loan given/taken but these facts have not been examined at the lower level. Further assessee counsel has relied on the judgment of Hon'ble Apex Court noted in the case of S. A. Builders (supra). As per the submission of the assessee, the case of assessee is completely covered in favour of the assessee. However, we have gone through the judgments. We noted that as per para No.12 of the said judgment, it has been observed that OD account was debit balance and loan was given out of OD account. Therefore this judgment will not apply.

9. Considering the facts of the case and in the interest of justice, we are remitting this issue back to the file of AO for denovo consideration and decide the issue as per law. Assessee is directed to substantiate his case with cogent documents and not seek unnecessary adjournments for early disposal of the case. In case of failure, no second leniency shall be granted to the assessee.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

**(SOUNDARARAJAN K)
Judicial Member**

Sd/-

**(LAXMI PRASAD SAHU)
Accountant Member**

Bangalore.

Dated: 18.12.2025.

/NS/*

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|---------------|------------------------|
| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR,ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.