

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 2137/Bang/2025
Assessment Year: 2015-16

M/s. Hasti Builders Pvt. Ltd., Saroja Square Building, 3 rd floor, Airport Varthur Road, Before kundannahalli Circle, Bangalore – 560 037. PAN NO :AAACH4441B	Vs.	ACIT, Circle-3(1)(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Sheetal Borkar, Advocate
Respondent by	:	Sri Ganesh R Ghale, Advocate – Standing Counsel for Revenue

Date of Hearing	:	29.01.2026
Date of Pronouncement	:	30.01.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order passed by Id. Addl./JCIT(A)-2, Visakhapatnam dated 28/08/2025 vide DIN & Order No.ITBA/APL/S/250/2025-26/1080085669(1) passed u/s. 250 r.w.s 254 of the Income Tax Act (in short “the Act”) for the AY 2015-16.

2. The assessee has raised the following grounds of appeal:-

1. The learned CIT(A) erred in passing the order in the manner he did.

2. The learned CIT(A) ought to have consider that, the person handling the matter in the company had left the job and did not intimate about the proceedings to anyone and hence the details could not be submitted.
 3. The learned CIT(A) erred in disallowing the interest expenses without appreciating that he has invoked sec 14A in mechanical manner without recording satisfaction with regard to nexus between fund and investment in non-interest-bearing fund.
 4. The learned CIT(A) erred in disallowing interest income u/s. 37 of the Act without appreciating that the funds were given for business purpose and during the course of business and hence they ought to have allowed the same on commercial expediency basis.
 5. The learned CIT(A) ought to have allowed the depreciation as claimed by the appellant in full since it was an asset owned by the appellant/assessee and used for the purpose of business of the appellant.
 6. Without prejudice, the impugned additions are excessively arbitrary and unreasonable and liable to be deleted in full.
 7. For these and such other grounds that may be urged at the time of hearing the appellant prays that the appeal may be allowed.
- 3.** Brief fact of the case is that the assessee company is in the business of Real Estate Development and sales. The assessee

filed its return of income for the AY 2015-16 on 28/09/2015 declaring current year loss of Rs.46,47,829/- under the normal provisions of the Act. The return was processed u/s. 143(1) of the Act by accepting the returned income. Thereafter, the case was selected for scrutiny under CASS for the following reasons:-

1. Large interest expenses relatable to exempt income (u/s. 14A).
2. High Interest expenses as compared to business turnover.

Accordingly, the notices u/s. 143(2) as well as 142(1) of the Act along with intimations were served upon the assessee. The AO seen that the compliances from the company for the various notices had been incomplete, insufficient and untimely. Further, AO observed that despite having been given multiple opportunities, the details required have not been filed by the assessee and accordingly issued another show cause to the assessee as to why proceedings should not be completed based on material available on records along with notice u/s. 142(1) of the Act. The AR of the assessee finally appeared on 24/11/2017 and filed a written submission along with the confirmation of loans and copies of the ITR-V of the lenders. The assessee also filed another letter dated 24/11/2017 stating that out of total depreciation claimed amounting to Rs.11,17,021/-, the majority of depreciation has been claimed towards the building from which property income is earned. The AO however was of the opinion that the interest expenses deserved to be added back to the total income as the assessee

did not contest the disallowance of interest claim of Rs.45,03,676/- u/s. 37 of the Act. Of the depreciation claimed, since the assessee did not clearly established amount claimed towards assets used for earning other income and just stated that majority of it was claimed on building for parking, 50% of depreciation was disallowed and added back to the total income. Thus, the AO concluded the assessment proceedings on a total assessed income of Rs.4,14,358/- as against the total current year loss of Rs.46,47,829/- by making the following additions:-

1. Interest of Rs.45,03,676/- is disallowed u/s. 37 of the Act (additions of Rs.45,03,676/-).
2. 50% of deprecation of Rs.11,17,021/- is disallowed u/s. 37 of the Act (additions of Rs.5,58,511/-).
4. Aggrieved by the order of the AO passed u/s. 143(3) of the Act dated 01/12/2017, the assessee preferred an appeal before the ld. CIT(A)/Addl./JCIT (A).
5. The ld. Addl./JCIT(A)-2, Visakhapatnam dismissed the appeal of the assessee due to lack of prosecution by the assessee and non-submission of any evidences or written submissions during the appellate proceedings. Further, the ld. Addl./JCIT(A)-2, Visakhapatnam also observed that the assessee has not substantiated its claim with any supporting evidences and accordingly he find no infirmity in the order of the AO and hence upheld the additions made by the AO.
6. Again aggrieved by the order of the ld. Addl./JCIT(A)-2, Visakhapatnam, the assessee has filed the present appeal before

this Tribunal. The assessee also filed a paper book comprising of 81 pages containing therein copy of the income tax return from AY 2013-14 to AY 2017-18 along with audited financials and the case law relied upon by the assessee in support of its case.

- 7.** Before us, the ld. AR of the assessee vehemently submitted that the assessee could represent its case properly before both the authorities below and accordingly prayed that one more opportunity may be granted before the AO to substantiate its claim. The ld. AR of the assessee also drew our attention to an affidavit in original sworn before the notary public on 27/01/2026 stating the reasons for a non-appearance before the ld. Addl./JCIT(A)-2, Visakhapatnam.
- 8.** The ld. DR on the other hand vehemently submitted that the assessee is very callous in its approach before both the authorities below and if the case is remitted back by this bench then heavy cost may be imposed on the assessee for the continuous negligence shown by the assessee. Lastly, the ld. DR submitted that the details filed in the paper book was never produced before the authorities below and accordingly prayed that the appeal may be dismissed in limine.
- 9.** We have heard the rival submissions and perused the material available on record. On going through the order of assessment, we take a note of the fact that during the course of assessment proceedings, the assessee filed a written submission along with the confirmation of loans from parties for whom the notice u/s. 133(6) of the Act had returned unserved. The assessee also

produced copies of ITR-V for these parties. Further, with regard to the claim of depreciation amounting to Rs.11,17,021/- the assessee submitted that majority of the depreciation had been claimed towards building from which property income is earned. We are of the opinion that the assessee inspite of submitting the details of confirmation from the parties along with copies of ITR-V, the AO added the same on the ground that assessee did not contest the disallowance of interest claim of Rs.45,03,676/- u/s. 37 of the Act which is quiet surprising and completely unacceptable. Further, we also take a note of the fact that the AO without giving proper reasoning had also disallowed 50% of the depreciation on adhoc basis. On going through the order of the Id. Addl./JCIT(A)-2, Visakhapatnam, we take note of the fact that, the assessee inspite of giving six nos. of opportunities did not submit any evidences or file any written submissions to substantiate its claim. Before us, the assessee filed an affidavit dated 27/01/2026 stating the reasons for non-appearance before the Id. Addl./JCIT(A)-2, Visakhapatnam. This being so, in the interest and justice and fare play and as requested by the AR of the assessee, we deem it fit and proper to remit the entire issue in dispute to the file of AO to decide a fresh in accordance with law. Needless to say, a reasonable opportunity of being heard must be granted to the assessee. The assessee is directed to co-operate with the proceedings before the AO and submit all the necessary documents/ record/accounts as may be required by AO for completion of the assessment.

- 9.1** Further, while remitting the matter to the file of AO, we also consider it necessary to impose a token cost of Rs.10,000/- (Ten

Thousand only) to the assessee owing to the continued negligence shown to the statutory notices at both the levels. The assessee shall deposit the cost warranted in favour of Prime Minister Relief Fund and receipt thereof shall be furnished before the AO. With these terms the appeal of the assessee is restored to the file of AO for denovo adjudication in accordance with law. We hereby clarify that in case of further default, the assessee shall not be entitled to any leniency. It is ordered accordingly.

- 10.** In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 30th Jan, 2026

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 30th Jan, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.