

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
" A " BENCH, CHENNAI

श्री चंद्र पूजारी, लेखा सदस्य एवं
श्री वी. दुर्गा राव, न्यायिक सदस्य के समक्ष
BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER &
SHRI V. DURGA RAO, JUDICIAL MEMBER
आयकर अपील सं./ **I.T.A. No. 209/Mds/2014**
(निर्धारण वर्ष / Assessment Year : 2009-2010)

M/s. Helio Engineering Private
Limited,
No.5, RK Syndicate,
Near Senthil Nagar,
Kolathur, Chennai 600 099.

The Assistant Commissioner of
Income Tax,
Company Circle II(2).
Chennai 600 034.

[PAN:AAACH 2368H]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri. Gopal Krishna Raju, C.A
प्रत्यर्थी की ओर से / Respondent by : Shri. P. Radhakrishnan, IRS, JCIT.

सुनवाई की तारीख/Date of hearing : 25.05.2015
घोषणा की तारीख /Date of Pronouncement : 19.06.2015

आदेश / ORDER

PER CHANDRA POOJARI, ACCOUNTANT MEMBER

This appeal by assessee is directed against the order of the
Commissioner of Income Tax (Appeals)-II, Chennai dated 30.09.2013
for the assessment year 2009-2010.

2. The only grievance of the assessee is regarding disallowance of interest of ₹8,31,420/- paid by assessee on the term loan, which was used for purchase of property which is yet to be put into use as on 31.03.2009. The Assessing Officer disallowed interest amount of ₹8,31,420/- on the reason that the assessee used the loan amount for the purchase of land which has not been put to use. According to the Assessing Officer, the assessee made an advance of ₹84,96,220/- which was paid on two occasions on 09.07.2008 and 12.07.2008 after obtaining loan from bank. The assessee paid bank interest of ₹9,78,576/-. On the proportionate interest on ₹84,96,220/- which works out to ₹8,31,420/- as asset was not put to use, the Assessing Officer considered the expenditure as capital asset and disallowed the claim. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals). On appeal, the Commissioner of Income Tax (Appeals) confirmed the order of Assessing Officer. Against this, the assessee is in appeal before us.

3. We have heard both the sides and perused the material available on record. The Id. Authorised Representative pleaded that the assessee purchased the land and used the same for the purpose of storing its stock in trade. However, the Authorised Representative for

assessee not able to show any evidence reflecting date of purchase of above land and also there is no iota of evidence placed regarding storing of assessee's stock in trade in the impugned land. Further, in view of Finance Act, 2003 which was brought out an amendment w.e.f. 01.04.2004 consequent to which no deduction will be allowed in respect of any amount of the interest paid, on capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalized in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset, was first put to use. In other words as per section 36(1)(iii) of the Act, any expenditure incurred in relation to acquiring a capital or fixed asset is to be capitalized and the only allowable deduction is by way of depreciation of such capital assets. Hence, in this case, there is a categorical finding by the Commissioner of Income Tax (Appeals) that the land was not put to use upto 31.03.2009 and the cost of the land is to be considered as capital asset only and the interest incurred on the term loan, which was used for the purpose of making advance for purchase of land, is capital expenditure and it cannot be allowed as Revenue expenditure. Accordingly, this ground is dismissed.

4. In the result, the appeal of the assessee in ITA No.209/Mds/2014 is dismissed.

Order pronounced on Friday, the 19th day of June, 2015, at Chennai.

Sd/-
(वी. दुर्गा राव)
V. DURGA RAO
न्यायिक सदस्य / **JUDICIAL MEMBER**

Sd/-
(चंद्र पूजारी)
(CHANDRA POOJARI)
लेखा सदस्य/ **ACCOUNTANT MEMBER**

चेन्नई/Chennai.

दिनांक/Dated:19.06.2015.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant 2.प्रत्यर्थी/ Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF.