

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI**

BEFORE SHRI MAHAVIR SINGH, VP & SHRI M. BALAGANESH, AM

ITA No. 2687/Mum/2019  
(Assessment Year 2013-14)

Citywood Builders Pvt. Ltd. Unit No. 116, 1 <sup>st</sup> Floor, Rehab Building No.4, Akruti Annex, Road No.7, Marol MIDC, Andheri (E), Mumbai-400093	Vs.	DCIT-14(1)(2), R. No. 470, 4 <sup>th</sup> Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.
(Appellant)		(Respondent)
PAN No. AANCS0962R		

Appellant by	:	Ms. Ira Bahl (AR)
Respondent by	:	Shri V. Sreekar (DR)

Date of hearing:	06.04.2021
Date of pronouncement:	16.04.2021

**ORDER**

**PER M. BALAGANESH, AM:**

1. This appeal of the assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals) -21, Mumbai [hereinafter referred to as the Id CITA] in Appeal No. CIT(A)-21/DCIT-14(1)(2)/IT-407/2016-17 dated 15.03.2019 against the order passed by the Learned Dy. Commissioner of Income Tax, Range 14(1)(2), Mumbai [hereinafter referred to as the Id AO] under section [u/s] 143(3) of the Income Tax Act, 1961 [hereinafter referred to as the 'Act'] dated 29.3.2016 for the Assessment Year 2013-14.

2. The only issue to be decided in this appeal is as to whether the Id. Commissioner of Income Tax (Appeals [for short 'the CIT(A)] was justified in upholding the disallowance of prior period interest expenses of Rs. 7,61,59,332/- which relates to work-in-progress in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. We find that assessee-company is engaged in the business of real estate development and had derived loss from business during the year. The return of income for the Assessment Year (AY) 2013-14 was filed on 30.11.2013 declaring net loss of Rs. 2,68,68,902/- which was later revised on 31.03.2015 declaring net loss of Rs. 2,72,40,409/-.

4. We find that the Assessing Officer (AO) during the scrutiny assessment proceedings observed that assessee has debited an amount of Rs. 7,61,59,332/- towards prior period interest expenses pertaining to AY 2012-13. The assessee submitted before the AO that the said interest expenses has been debited to the cost of inventory and duly included in the closing stock of inventory of Rs. 63,49,03,661/-. In effect, the assessee pleaded that it had not claimed any expenditure or deduction towards the said prior period interest and that the same has only been debited to work-in-progress.

5. We find that the AO without understanding and appreciating these contentions of the assessee proceeded to make disallowance on prior period

expenses in the assessment, which was upheld by the Id. CIT(A). We find that the genuineness of the incurrance of the aforesaid interest expenditure of Rs. 7,61,59,332/- has not been doubted by the revenue. We find that assessee had filed a detailed note before the lower authorities stating that it has recorded this interest expenses of Rs. 761,59,332/- as "Prior Period Adjustment" in the Profit & Loss Account i.e. after profit after tax. However, this interest expense has been debited to the cost of inventory and forms part of closing inventory of Rs. 63,49,03,661/- as shown in Note-18 of Profit & Loss Account i.e. "changes in inventory".

6. We have gone through the detailed break up of items included in the closing work-in-progress which admittedly include this interest expenses of Rs. 761,59,332/-. For the sake of convenience, the said working is reproduced hereunder:

## Reconciliation of Expenses transferred to P&amp;L A/c and Capitalised to Inventory

Group & Account Heads	P&L	WIP
Opening WIP		56,17,74,204
Add: Additional Expenses	22,86,369	11,95,88,418
Admin OH		
Balances Written back	(1)	
Contm. To PF & Other Fund		1,34,504
Depreciation		2,74,264
Directors fees & Travelling	5,52,036	14,40,000
Donation		20,000
Employee-Staff Welfare		80647
Other Expense	4,09,978	4,41,373
Salary, Bonus, etc.		52,10,393
Finance OH		
<b>Interest Expense</b>		<b>7,61,59,332</b>
Interest on Delayed Pymt.	10,37,392	
Finance OH-Income		
Interest Income on FD		(16,402)
Interest income on Loan		(16,87,927)
Marketing & Selling OH		
Brokerage	2,86,424	
Premium on cancellation of flat		89,94,000
Municipal Charges		
Other Direct Exp.		1,282
Prof. Fee		
Legal & Prof. fees		43,64,952
Rehab Contrn.		
Land Cost		9,00,000
Rehab Rent		
Land cost		1,31,22,000
Removal of Htments		
Land cost		1,01,50,000
<b>Add: Budgeted Expenses</b>	<b><u>2,02,088</u></b>	<b><u>3,10,67,952</u></b>
Admin OH		
Other Expense	2,02,088	
Marketing & Selling OH		
Advertisement		58,26,096
Municipal Charges		
Other Dierct Exp.		2,47,536
Rehab Contrn.		
Land Cost		5,65,034
Material & labour		64,01,317
Other Expense		16,55,415
Vedant Constrn.		
Other Direct Exp.		1,63,72,554

Grant Total	24,88,457	15,06,56,370
Less: Transferred to COGS		(7,75,26,913)
Closing WIP		63,49,03,661

7. Admittedly, this interest expense of Rs. 7.61 crores though pertains to AY 2012-13 was never claimed as deduction by the assessee. If due provision has been made on mercantile basis then the same would have got included in the opening work-in-progress of Rs. 56.17 crores and the opening work-in-progress thereon would have increased by Rs. 7.61 crores being the interest expenses. Since no provision was made by the assessee in AY 2012-13 for this interest expense, it was not included in the opening work-in-progress at Rs. 56.17 crores.

8. We find that assessee had included the same in the closing work-in-progress in AY 2012-13. Hence this is a clear case of omission of booking an expenditure to the closing work in progress, which was rectified during the year under consideration. In any case, we find that assessee has not claimed any deduction for the same warranting any disallowance. Hence, we also find that assessee has furnished Profit & Loss Account for the year ended on 31.03.2013 **without interest expenses** and **with interest expenses** to drive home the point that loss for the year remains the same in both the scenario at Rs. 2,89,01,857/-. For the sake of convenience both the said Profit & Loss Account are reproduced hereunder:

**Statement of Profit and Loss for the year ended 31<sup>st</sup> March, 2013 (without interest expense)**

<b>Particulars</b>	<b>Amount (Dr.)</b>	<b>Particulars</b>	<b>Amount (Cr.)</b>
To Opening inventory	56,17,74,204	By Revenue from operations	5,11,62,091
To Cost of Construction	4,52,87,138	By Share of profits/ (loss) from joint ventures and partnership firms	17,04,330
To Employee benefit expense	54,25,544		
To Finance Costs	10,37,932	<b>By Closing Inventory (Without interest cost)</b>	<b>5,87,44,329</b>
To Depreciation and amortization	2,74,264		
To other expenses	2,67,13,525		
To Profit before extraordinary items and tax	<u>(289,01,857)</u>		<u><b>61,16,10,750</b></u>
To Prior period Adjustment	-		<u><b>(2,89,01,857)</b></u>
		<b>By Loss for the year</b>	<b><u>2,89,01,857</u></b>

Note:

1. Extract of Profit & Loss Account without interest cost amounting to Rs. 7,61,59,332/- (capitalised and not forming part of Profit & Los Account)
2. Interest cost amounting to Rs. 7,61,59,332/- capitalized to cost of inventory and is not passed through Profit & Loss Account.

**Statement of Profit and Loss for the year ended 31<sup>st</sup> March, 2013 (with interest expense)**

<b>Particulars</b>	<b>Amount (Dr.)</b>	<b>Particulars</b>	<b>Amount (Cr.)</b>
To Opening inventory	56,17,74,204	By Revenue from operations	5,11,62,091
To Cost of Construction	4,52,87,138	By Share of profits/ (loss) from joint ventures and partnership firms	17,04,330
To Employee benefit expense	54,25,544		
To Finance Costs	10,37,932	<b>By Closing Inventory (Includes interest of prior period of Rs. 7,61,59,332)</b>	<b>63,49,03,661</b>
To Depreciation and amortization	2,74,264		
To other expenses	2,67,13,525		
To Profit before extraordinary items and tax	4,72,57,475		<b>68,77,70,082</b>
	<u>68,77,70,082</u>		4,72,57,475
To Prior period Adjustment	7,61,59,332	<b>To Loss for the year</b>	<b>2,89,01,857</b>
	<u>7,61,59,332</u>		<u>7,61,59,332</u>

Note:

1. Extract of Profit & Loss Account with interest cost credited to Closing Inventory and Debited to Profit & Los Account
2. Interest cost forming part of Closing Stock as well as Prior Period adjustment amounts to Rs. 7,61,59,332/-.

9. From the above, it can be safely concluded that loss for the year continues to remain the same and hence the contention of the assessee that it had not claimed any deduction in the return of income for the AY 2013-14 towards prior period interest deserves to be accepted and accordingly the grounds raised by the assessee are allowed.

10. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 16.04.2021

Sd/-

MAHAVIR SINGH  
(VICE-PRESIDENT)

Mumbai, Dated: 16.04.2021

SK.PS

Sd/-

M. BALAGANESH  
(ACCOUNTANT MEMBER)

**Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त (अपील)/ The CIT(A)
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधिआयकर ,अपीलीयअधिकरणमुंबई ,/  
DR, ITAT, Mumbai
6. गार्डफाईल /Guard file.

BY ORDER,

(Asstt.Registrar)  
**ITAT, Mumbai**