

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

**BEFORE SHRI MAHAVIR SINGH, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.1087/M/2017
Assessment Year: 2013-14**

M/s. Town & Country Realty Pvt. Ltd. (Merged with Attarchand Trading Co. Pvt. Ltd.), 702, Natraj, M.V. Road Junction, W.E. Highway, Andheri (E), Mumbai – 400 069 PAN: AACCT 7395Q	Vs.	ITO 11(3)(1), IT Office, Aayakar Bhavan, Mumbai
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Naresh Kumar, A.R.
Revenue by : Shri D.G. Pansari, D.R.

Date of Hearing : 18.09.2018
Date of Pronouncement : 01.10.2018

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 17.11.2016 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2013-14.

2. The grounds raised by the assessee are as under:

“The Honorable Commissioner of Income Tax Appeals has erred in confirming disallowance of interest expenses of Rs.7,14,807/- debited to Profit & Loss Account by stating that the land shown as Inventory is agricultural land and as the same has not been converted to Non Agricultural land and therefore the income from agricultural land is exempt which is incorrect. Further, the learned assessing officer has failed to understand the concept of "qualifying asset" as per "Accounting Standard 16 -Borrowing Costs" and thereby disallowed the Interest

expenses of Rs.7,14,807/-Accordingly, it is prayed to your honour to delete the addition made by the learned assessing officer with regards to the interest expenses for the year under consideration.

Without prejudice to above it is prayed that if interest expenditure is not allowed to be claimed in the P&L account then such expenditure shall be allowed to be capitalised to the Inventory of the appellant company during the year under consideration.

The Appellant craves leave to add to, amend, and/or alter all or any of the above Grounds of Appeal.”

3. The main issue challenged by the assessee the confirmation of disallowance of Rs.7,14,807/- by Ld. CIT(A) as made by the AO on the ground that the land purchased shown as inventory is an agricultural land and same has not been converted into non agricultural land for the purpose of development.

4. The facts in brief are that the assessee is engaged in the business of property development. The AO during the course of assessment proceedings observed that assessee has charged a sum of Rs.7,14,807/- to the P & L Account whereas the assessee has not earned any income during F.Y. 2012-13 relevant to A.Y. 2013-14 besides claiming other expenses. Accordingly, AO asked the assessee to explain as to how these expenses were allowable under the Act which was replied by the assessee vide letter dated 18.01.2016 submitting before the AO that according to the accounting standard-16 the land does not qualify for qualifying asset and therefore not capitalized and it is only for this reason the interest cost has been debited to the P & L Account. However, the AO found that the assessee purchased the agricultural land way back in 2007 and the income of the said agricultural land is tax free and the same has not been

converted into non agricultural land. AO also observed that no developmental activities were carried out on by the assessee on the said land and therefore the expenses incurred for acquisition of the said land are not allowable and accordingly added back Rs.7,14,807/- on account of interest cost attributable to the acquisition of said land.

5. The Ld. CIT(A) dismissed the appeal of the assessee by observing and holding as under:

"5. I have carefully gone through the assessment order, the contention the appellant and the facts of the case. Under this ground of appeal the appellant has agitated the disallowance of interest to Rs. 7,14,807/-. I have considered the Assessment Order vis-a-vis the submissions of the appellant. I find that the AO has disallowed interest amounting to Rs. 7,14,807/- on the ground that there is no business income corresponding to said expense. Interest paid for acquisition of agricultural land is inadmissible because the income from same is exempt. The AO therefore observed that the same cannot be capitalized as well. The AO further observed that the interest can be allowed only if taxable income is generated out of the said asset. The Appellant has not even converted Agricultural Land into Non-Agricultural Land for 9 Years. I also find that this factum was duly admitted by the appellant that agricultural land does not qualify for "quantifying as per paper book asset" as per Accounting Standards by letter dated 18th January, 2016 to the AO vide page 20 of paper book. I therefore, find that the AO has rightly disallowed the interest.

5.1 I further find that the case laws relied upon by the Assessee Representative is not pertaining to agricultural land and therefore distinguishable on facts. This ground of appeal is dismissed.

6. Ground No.2: This ground of appeal is general in nature and does not require any adjudication."

6. Having heard both the parties and perusing the material on record as placed before us, we find that the assessee is engaged in the business of property developer and builder. In the ordinary course of business, the assessee acquired the agricultural land in 2007 by borrowing money on which the interest of Rs.7,14,807/- debited to P & L Account whereas there

was no income during the year. The AO added the same to the income of the assessee on the ground that the property purchased was agricultural land, the income from which is exempt from tax and it was not converted into non agricultural land by the assessee nor any developmental activities were undertaken. Similarly, the Ld. CIT(A) also confirmed the addition of the interest on the ground that the said land remained agricultural land for a period of 9 years and does not qualify for qualifying asset and therefore justified the addition.

7. The undisputed facts are that the assessee purchased the property for the purpose of development and shown the same as stock in trade. In our opinion, when the assessee is engaged in the business of property development, any interest cost which is incurred in connection with the acquisition of assets which is shown as inventories has to be allowed as expense even though no revenue is generated from the development of property/sale of the property. Moreover, capitalization of such assets is not necessarily to be made in order to capitalize the interest which is wrong as this is a case of assessee engaged in the business of development and trading of properties. We are, therefore, not in agreement with the conclusion drawn by the Ld. CIT(A) that the expenses incurred by way of interest of loan on acquisition of agricultural land in 2007 is not allowable either as revenue expenses or as capital expenses as asset is not capitalized. We, therefore, set aside the order of Ld. CIT(A) and direct the AO to allow the expenses as revenue expenses.

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

Order pronounced in the open court on 01.10.2018.

**Sd/-
(Mahavir Singh)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 01.10.2018.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.