

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before Dr. BRR Kumar, Vice President
And Ms. Suchitra Kamble, Judicial Member**

ITA No. 477/Ahd/2025 Assessment Year 2017-18

Mahadev Infracon, B- 121, Jivan Park Society, Nr. Samrat Nagar, Isanpur, Ghodasar PAN: AAXFM8708L (Appellant)	Vs	The Dy. CIT, Circle-3(2)(1) Ahmedabad (Respondent)
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**Assessee by: Shri Prashant Srivastav, A.R.
Revenue by: Shri B.P. Srivastava, Sr. D.R.**

Date of hearing : 23-09-2025
Date of pronouncement : 04-11-2025

आदेश/ORDER

Per Suchitra Kamble, Judicial Member:

This is an appeal filed against the order dated 31-12-2024 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

2. The grounds of appeal are as under:-

"a. The Ld. CIT(A) erred in confirming the order of the AO making Disallowance u/s 36(1)(iii) to the extent of Rs. 10,39,500/-.

b. Any other ground which may be urged before or during the time of hearing of the appeal."

3. The assessee is a partnership firm incorporated on 18-12-2013 and engaged in business activities such as development construction and organizing activities for residential, commercial and industrial properties as well as buying and selling of land, residential houses, shops, offices, flats, duplex or tenement as well as selling the land by way of plotting as well as consulting services related to construction. The return of income for assessment year 2017-18 was filed on 28-10-2017 declaring income of Rs. 1,98,10,210/- based on audited financial statement. The assessee had made short term investment of Rs. 5 crore in mutual fund on 27-01-2017 which was redeemed in March, 2017 and May, 2017, yielding short term capital of Rs. 81,391/- in assessment year 2017-18 and Rs. 8,19,200/- for assessment year 2018-19 which was offered to tax in relevant assessment year. The case was selected for scrutiny and assessment was completed u/s. 143(3) on 10-12-2019 wherein the Assessing Officer disallowed Rs. 10,39,500/- u/s. 36(1)(iii) alleging thereby the diversion of borrowed fund for investment in mutual fund. The assessee had made investment in mutual fund which was observed as not related to the business but the assessee contended that investment was made from interest free fund. The assessee also submitted that no fresh and unsecured loans were taken during assessment year 2017-18 instead of Rs. 7.15 crores of existing loan were repaid. The Assessing Officer held that borrowed funds were used for mutual fund investment and disallowed proportionate interest despite absence of direct nexus of the funds. Thus, the Assessing Officer made addition of Rs. 10,39,500/- by disallowing interest expenses u/s. 36(1)(iii) of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. A.R. submitted that in the relevant assessment year 2017-18, the assessee has yielded short term capital gain of Rs. 81,391/- and in subsequent years it was Rs. 8,19,200/- and in both the assessment years the said amount was offered to tax. In respect of balance 4 crore, the same was reflected in the subsequent years and this crucial fact was not taken into account by the Assessing Officer. At page no. 62 of the paper book, the Ld. A.R. pointed out that this balance Rs. 4 crore was reflected in the balance sheet as well. Thus there was an expenditure of interest to the extent of Rs. 10.39 lakhs which should have been allowed.

6. The Ld. D.R. submitted that there was no business purpose reflected and therefore the Ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee has repaid 7 crores as unsecured loans and in fact has incurred expenses/expenditure of interest paid on the said loan and it is totally reflected in the balance sheet more specifically the assessee has given the details of unsecured loans repayment as well as the interest component from page 62 onwards in the paper book filed before us which was submitted before both the revenue authorities. Thus, the Assessing Officer as well as the CIT(A) has totally ignored this fact. The appeal of the assessee is allowed.

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

Order pronounced in the open court on 04-11-2025

Sd/-
(Dr. BRR Kumar)
Vice President

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 04/11/2025

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद