

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2587/Mds/2016

निर्धारण वर्ष / Assessment Year : 2012-13

The Deputy Commissioner of
Income Tax,
Corporate Circle – 2(2),
Chennai - 600 034.

(अपीलार्थी/Appellant)

v. M/s Hermes I Tickets Pvt. Ltd.,
C-9, Thiru-Vika-Industrial Estate,
Guindy, Chennai - 600 032.

PAN : AABCH 7295 J

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri V. Sreenivasan, JCIT

प्रत्यर्थी की ओर से/Respondent by : None

सुनवाई की तारीख/Date of Hearing : 27.06.2017

घोषणा की तारीख/Date of Pronouncement : 27.07.2017

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-6, Chennai, dated 25.07.2016 and pertains to assessment year 2012-13.

2. No one appeared for the assessee inspite of service of notice. The Registry has placed on the record the postal acknowledgement as proof of service of notice on the assessee.

Therefore, we heard the Ld. Departmental Representative and proceeded to dispose of the appeal on merit.

3. Shri V. Sreenivasan, the Ld. Departmental Representative, submitted that the only issue arises for consideration is disallowance of interest under Section 36(1)(iii) of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. D.R., the assessee debited ₹3,30,53,908/- against business profit towards interest. The Ld. D.R. submitted that the assessee availed overdraft loan of ₹40,33,86,485/- and incurred a corresponding interest cost to the extent of ₹3,30,63,908/-. According to the Ld. D.R., the advances were made to sister concern of the assessee. One of the sister concerns, namely, GI Hospitalities Pvt. Ltd. is engaged in the business of hotel booking. However, it is not in receipt of any income towards hotel booking. According to the Ld. D.R., the assessee diverted the borrowed funds by making investment in the sister concern and at the same time incurring huge interest cost. Since the money was not advanced for business purpose or for meeting any commercial expediency, the interest claimed by the assessee cannot be allowed. Therefore, according to the Ld. D.R., the CIT(Appeals) is not justified in allowing the claim of the

assessee by placing reliance on the judgment of Apex Court in S.A. Builders Ltd. v. CIT (288 ITR 1).

4. We have heard the Ld. Departmental Representative and perused the material available on record. The CIT(Appeals) found that the advances were made for commercial expediency. Accordingly, he allowed the claim of the assessee by placing reliance on the judgment of Apex Court in S.A. Builders Ltd. (supra). The Revenue now claims that there was no commercial expediency in advancing money to sister concerns. From the order of the CIT(Appeals), more particularly at page 6, it appears that major portion of amount was advanced to GI Retail Pvt. Ltd. and GI Terminal I Tech Pvt. Ltd. From the order of the CIT(Appeals) it appears that the main source of revenue for the assessee-company is commission from rail and air booking. GI Technology Pvt. Ltd. is an agent of IRCTC and it requires funds for upkeeping of its security deposits. Therefore, the assessee advanced money. The CIT(Appeals), after verifying the material found that maximum amount advanced to GI Technology Pvt. Ltd. for the purpose of licence for railway ticket/payment gateway for online transaction under licence from RBI. This fact is not disputed by the Revenue.

Therefore, this Tribunal is of the considered opinion that the advance made by the assessee to sister concerns is for commercial expediency and for the purpose of business. Hence, the judgment of Apex Court in S.A. Builders Ltd. (supra) would come into operation. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 27th July, 2017 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 27th July, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-6, Chennai
4. Principal CIT-2, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.