

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, BENGALURU**

**BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER
and
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.2082/Bang/2016
(Assessment year: 2012-13)

M/s.Global Entropolis (Vizag) (P) Ltd.
No.40/43, 8th Main, 4th Cross,
Sadashivnagar,
Bengaluru-560080. ... Appellant
PAN:AADCG1109J

Vs.

Deputy Commissioner of Income-tax,
Circle 3(1)(2),
Bengaluru. ... Respondent

Appellant by : Shri C.Ananthan, CA.
Respondent by : Shri Pramod Kumar Singh, CIT(DR)

Date of hearing : 27/11/2017
Date of pronouncement : 26/02/2018

O R D E R

Per INTURI RAMA RAO, AM :

This is an appeal filed by the assessee company directed against the order of the learned Commissioner of Income-tax (Appeals)-3, Bengaluru dated 28/09/2016 for the assessment year 2012-13.

2. Briefly, facts of the case are that the assessee is a company incorporated under the provisions of the Companies Act, 1956. It is engaged in the business of property development. The return of income for the assessment year 2012-13 was filed on 29/09/2012 declaring loss of Rs.5,54,10,126/-. Against the said return of income, the assessment

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was completed by the Deputy Commissioner of Income-tax, Circle 3(1)(2), Bengaluru [AO], vide order dated 31/03/2015 passed u/s 143(3) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short] at total income of Rs.2,80,18,045/-. While doing so, the AO made addition on account of interest earned from bank of Rs.1,45,10,399/- under the head 'income from other sources' and also addition on account of difference in the amount of recognition of income in respect of works-in-progress i.e., construction of villas and apartments following percentage of completion method of Rs.6,89,17,772/-.

3. Being aggrieved, an appeal was preferred before the Id.CIT(A), who vide impugned order, dismissed the appeal.

4. Being aggrieved, the assessee is before us. Learned AR of the assessee vehemently contended that interest income of Rs.1,45,10,399/- was earned by the assessee-company on fixed deposits made with banks in order to secure bank guarantee for business purpose. Therefore, interest income earned should be treated as part of business income and set off against interest expenditure. Reliance in this regard was placed on the decision of the Hon'ble Supreme Court in the case of *Tuticorin Alkali Chemicals & Fertilizers Ltd. v. CIT* [1997] 227 ITR 172. As regards addition on account of difference in the recognition of income, following the percentage of completion method, the only submission made by the learned AR of the assessee is that for the purpose of computing income following percentage of completion of method, the AO had considered interest as a part of expenditure incurred up to the date, where as

interest was not considered as part of the expenditure in the estimated cost of project. He also placed reliance on the decision of the Hon'ble Karnataka High Court in the case of *CIT vs. Tata Elxsi* (349 ITR 98).

On the other hand, Id.CIT(DR) placed reliance on the orders of the lower authorities.

We heard rival submissions and perused the material on record. The issue in this appeal is whether interest income earned on fixed deposits from bank is separately assessable under the head "income from other sources". The contention of the assessee is that interest income so earned should be set off against interest expenditure as borrowed funds were utilized for the purpose of making fixed deposits to secure bank guarantees for business purpose. No doubt law is settled that if there is nexus between income earned and expenditure incurred, expenditure should be allowed as a deduction. In the present case, though the assessee-company asserted before the AO that interest was earned on fixed deposits made to secure bank guarantees for the purpose of its business, no evidence was laid before the AO demonstrating that FDs were made only for the purpose of securing bank guarantees for business purpose and fixed deposits are made out of borrowed funds. Therefore, in order to meet ends of justice, we deem it fit to remit the matter back to the file of the AO for *de novo* examination of the issue on the above lines.

As regards difference in recognition of income, for purpose of calculating percentage of completion method, interest was considered as part of cost incurred till year end, interest should also be considered as part of estimated total cost in order to maintain parity, while calculating

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estimated total cost as well as cost incurred till date. If what is considered in the total cost incurred till date is not considered in estimated total cost, it gives a distorted picture of percentage of work completed. Therefore, we remit this issue back to the file of the AO to compute the percentage of completion method based on above methodology taking interest element as a part of cost in both estimated total cost as well as cost incurred.

In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 26th February, 2018

Sd/-
(SUNIL KUMAR YADAV)
JUDICIAL MEMBER

Place : Bengaluru.
D a t e d : /02/2018

srinivasulu, sps

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order

Senior Private Secretary
Income-tax Appellate Tribunal
Bangalore