

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH 'SMC', KOLKATA
[Before Shri P.M. Jagtap, AM]**

I.T.A. No. 2291/Kol/2017
Assessment Year: 2014-15

Devendra Finvest & Holding Pvt. Ltd.....Appellant
21A, B.R.B.B. Road,
Kolkata - 700 001
[PAN: AAACD 8854 C]

I.T.O. Ward 6(1) Kolkata,.....Respondent
P-7, Chowringhee Squarae,
Kolkata - 700 069

Appearances by:

Shri Kalyan Acharya Bhadhuri, AR appearing on behalf of the Assessee.
Shri Sailen Samaddar, Addl. CIT appearing on behalf of the Revenue.

Date of concluding the hearing : March 21, 2018

Date of pronouncing the order : March 23, 2018

ORDER

Per P.M. Jagtap, AM

This appeal is preferred by the revenue against the order of Ld. CIT(Appeals) - 2, Kolkata dated 03.08.2017 and the solitary issue involved therein relates to the disallowance of Rs. 35,85,925/- made by the A.O. and confirmed by the Ld. CIT(A) on account of interest expenditure.

2. The assessee in the present case is an investment and finance company. The return of income for the year under consideration was filed by it on 30.09.2014 declaring a total income of Rs. 4,76,240/-. In the profit and loss account filed along with the said return, a sum of Rs. 35,85,925/- was debited by the assessee on account of interest paid on the loans borrowed. During the courses of assessment proceedings, the claim of the assesses for deduction on account of the said interest was examined by the A.O. On such examination, he found

that loans borrowed by the assessee as on 31.03.2014 were to the tune of Rs. 1,87,25,000/- while the cash and cash equivalents as on the said date were to the tune of Rs. 1,77,18,976/-. According to him, the loans borrowed by the assessee company thus were not utilised for the purpose of its business and accordingly interest paid thereon was disallowed by him in the assessment completed under section 143(3) vide an order dated 15.11.2016.

3. Against the order passed by the A.O., an appeal was filed by the assessee before the Ld. CIT(A) and the following submission inter alia was made on behalf of the assessee company before the Ld. CIT(A) in support of its case that disallowance of interest made by the A.O. was not sustainable:

"The reason for disallowance by the Assessing Officer is that the entire interest paid is not related to the assessee's business and financing. According to him due to huge balance at the end of the year as shown in the account the entire loan fund remained unutilized. In this context the assessee craves leave to refer to the Bank Statement of the assessee company and the Accounts in order to show that the balance has been accumulated at the end of the year due to refund of deposit amount and subsequently, at the beginning of the year, the same has been disbursed as per practice of the assessee company for last several years, made Annexure-"A".

This view of the Assessing Officer is therefore erroneous as already explained before. The entire borrowed fund has to be used for disbursement of loan on which interest has been earned. Company's Profit & Loss Account also reflects profits from business. Unless the borrowed fund is utilized company could not have earned income from financing. So, it is entirely wrong to say that the Assessee did not use the borrowed fund. Both the loan fund and the own fund, has to be used for the purpose of disbursement of loan to the parties and earning revenue thereby. So, there is no basis for the addition. Such addition of interest should be deleted and Assessee's computation of income should have been maintained."

4. The Ld. CIT(A) did not find merit in the submission of the assessee and proceeded to confirm the disallowance made by the A.O. on account of interest by observing as under:

"I have considered the submissions of the authorized representative of the appellant as well as the assessment order framed in the light of the materials available on record before the assessing officer during the assessment proceedings. The AO has already discussed the issue in details while passing the order in the matter. The AO held that the borrowed fund was not utilized for the purpose of the business of the appellate company. The AO further held that the contribution of loan amount in earning or expending company not found. Hence, deduction was not wholly or exclusively related to business or real investment or investment return of which, if sold, chargeable to tax. Keeping in view of above, the order of the AO is upheld. These grounds of appeal are dismissed."

5. I have heard the arguments of both the sides and also perused the relevant material available on record. At the time of hearing the learned counsel for the assessee has reiterated the submission made before the Ld. CIT(A) that the amount of Rs. 1,77,18,976/- appearing in the form of cash and cash equivalents in the balance sheet of the assessee company as on 31.03.2014 was due to the recovery of substantial loans at the fag end of the year. In order to support and substantiate this stand of the assessee, he has referred to the bank statement of the assessee company placed at page no 19 of the Paper Book to point out that the loan amount of Rs. 1.49 crores was recovered by the assessee company on the last date that is 31.03.2014. He has contended that the inference drawn by the Assessing Officer on the basis of huge cash and bank balance appearing as at 31.03.2014 that the amount of loan borrowed was not utilised for the purpose of business was not correct and the fact that the said amount was utilised by the assessee company for the

purpose of its business of giving loans was evident from the interest income of Rs. 42,97,795/- earned by the assessee company during the year under consideration. After considering all the facts of the case as borne out from the documentary evidence placed on record, I find merit in the contention of the learned counsel for the assessee. It is observed that interest income of Rs. 42,97,795/- was earned by the assessee company during the year under consideration and this fact alone was sufficient to show that loans of Rs. 1.87 crores borrowed by the assessee company were utilised for the purpose of its business of giving loans and advances. It appears that the Assessing Officer however disallowed the interest paid by the assessee on the said borrowed funds by doubting their utilisation merely on the basis that almost the equal amount was appearing in the balance sheet of the assessee company in the form of cash and cash equivalents. As demonstrated by the learned counsel for the assessee, the bank balance of the assessee had increased as on 31.03.2014 due to recovery of loan amount of Rs. 1.49 crores on that date making it very clear that the disallowance made by the A.O. was not well-founded. I, therefore, delete the disallowance of interest made by the A.O. and confirmed by the Ld. CIT(A) and allow this appeal of the assessee.

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

Order Pronounced in the Open Court on 23rd March, 2018.

Sd/-

(P.M. Jagtap)
ACCOUNTANT MEMBER

Dated: 23/03/2018
Biswajit, Sr. PS

Copy of order forwarded to:

1. Devendra Finvest and Holding Pvt. Ltd., 21A, B.R.B.B. Road, Kolkata – 700 001.
2. ITO Ward 6(1), P-7, Chowringhee Square, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.
ITAT, Kolkata