

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI
BEFORE SHRI G.S. PANNU, AM AND SHRI PAWAN SINGH, JM
ITA No.1822/Mum/2018 Assessment Year 2011-12

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| M/s. MVR GL Joint Venture 304, Gokul Arcade, Subhash Road Vile Parle (E) Mumbai-400 057. | Vs. | Income tax Officer-25(3)(1) Matru Mandir, Grant Road Mumbai-400 007. |
| PAN :AAKFM 7520 P | | |
| (Appellant) | .. | (Respondent) |

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| Appellant by | Shri N.R. Agarwal |
| Respondent by | Shri S.K. Bepair-Sr.DR |

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| Date of Hearing | 08/08/2018 |
| Date of Pronouncement | 08/08/2018 |

ORDER

Per Pawan Singh , Judicial Member:

1. This appeal by the assessee is directed against the order of CIT(A)-37, Mumbai dated 06/02/2018 for AY 2011-12. The assessee has raised the following grounds of appeal:-

“The Learned CIT(A) erred in confirming the addition of interest income on Bank FDR Rs. 3,41,746/- though M/s G.L. Construction (Joint venture partner, had paid taxes on the interest income of Rs. 3,41,746/- from Bank. Thus resulting in double taxation of same income. There is no revenue loss & also erred in not following decision in assessee's own case for AY 2012/13 on exactly same facts & same grounds in appeal no. 6684/Mum/2016 ‘SMC’ Bench Pronounced on 7/67201”.

2. At the outset the Id. Authorised Representative (AR) submitted that the Grounds of appeal raised by the assessee is covered in favour of the

assessee in assessee's own case for AY 2012-13 (ITA No.6884/Mum/2016 dated 07/06/2017). The ld. AR of the assessee placed on record the copy of the decision of the Tribunal. On going through the Grounds of appeal and the decision of the Tribunal the Ld. DR for the revenue fairly conceded that Grounds of appeal raised by the assessee is covered in favour of the assessee.

3. We have gone through the order of the authorities below and find that similar Ground of Appeal is raised by the assessee in appeal for AY 2012-13. The Tribunal vide its order dated 07/06/2017 after considering the contention of the parties held as under :-

2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the addition of interest income, which has been disclosed by the partner of joint venture M/s GL construction and paid tax on this income of Rs 3,47,403/-. For this assessee has raised following ground: -

“1. The learned CIT(A), erred in confirming the fact that assessee had subcontracted the work to partner of joint holder on back to back basis as per agreement & erred by not considering the fact that partner of joint venture M/s G.L. Construction had paid taxes on the interest income of Rs. 3,47,403/- from Bank. Thus resulting in double taxation of same income. There is no revenue loss.”

3. Brief facts are that the assessee is a joint venture between GL construction Pvt. Ltd and MVR GL venture, and was awarded a contract by MMRD for widening of roads as per contract entered between joint venture and GL construction Pvt. Ltd. and entire work has been contracted to GL construction on back to back basis and filed nil return of income. The assessee filed nil return of income because of income including interest income has been declared by GL construction Pvt. Ltd and assessed as such in their return of income. But the AO added this interest income in the hands of the assessee. Aggrieved, assessee preferred the appeal before CIT(A), who also confirmed the action of the AO. Aggrieved, now assessee is in second appeal before Tribunal.

4. Respectfully following the decision of the Tribunal (supra), in assessee's own case for the AY 2012-13, we allow the Ground of appeal raised by the assessee.
5. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 08.08.2018.

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER
Mumbai; Dated: 08/08/2018
Jv.Sr.PS.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Copy of the Order forwarded to :

- 1.Appellant /अपीलार्थी 2. Respondent /प्रत्यर्थी
3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त, 4.The concerned CIT /संबद्ध आयकर आयुक्त
5.DR " SMC " Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, खंडपीठ,आ.अ.न्याया.मुंबई
6.Guard File/गार्ड फाईल

आदेशानुसार/ **BY ORDER,**
उप/सहायक पंजीकार **Dy./Asst. Registrar**
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai.