

IN THE INCOME TAX APPELLATE TRIBUNAL
"H" Bench, Mumbai
Before S/Shri B.R.Baskaran (AM) & Amarjit Singh (JM)
I.T.A. No. 4236/Mum/2017 (Assessment Year 2011-12)

Kelvion India Pvt. Ltd. (Earlier Gea Ecoflex India Pvt. Ltd) 403/404, Odyssey IT Park Road No. 9, Wagale Indl. Estate, Thane (West) Pin : 400 604. PAN : AACCG3264H (Appellant)	Vs.	ACIT 15(1)(2) Aayakar Bhavan M.K. Road Churchgate Mumbai-400 020. (Respondent)
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Assessee by	Shri Kirit Sheth
Department by	Shri Manoj Kumar Singh
Date of Hearing	30.10.2018
Date of Pronouncement	30.10.2018

ORDER

Per B.R. Baskaran (AM) :-

The appeal filed by the assessee is directed against the order dated 27.4.2017 passed by the learned CIT(A)-24, Mumbai and it relates to A.Y. 2011-12. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the disallowance of interest expenditure of ₹ 16.95 lakhs u/s. 36(1)(ii) of the Act.

2. The assessee is engaged in the business of manufacture and sale of plate heat exchanger. During the year under consideration the assessee had claimed interest expenditure of ₹ 33.23 lakhs. The Assessing Officer noticed that the assessee has shown capital work-in-progress at Rs. 1126.23 lakhs and Rs. 35,00,00/- as at the beginning and as at the end of the year respectively. Accordingly, he took the view that interest relating to capital work-in-progress should have been capitalized by the assessee. Accordingly, he worked out

interest relating to capital work-in-progress at Rs. 138.90 lakhs and disallowed the same.

3. Before the learned CIT(A), the assessee submitted that it has debited interest expenditure of Rs. 33.23 lakhs only to the profit and loss account out of which sum of Rs. 16.28 lakhs was relating to interest paid under Income Tax Act u/s. 234B & 234C of the Act. It was submitted that the above said interest of Rs. 16.28 lakhs has already been disallowed by the assessee voluntarily while computing total income. Accordingly, it was submitted that net interest debited to profit and loss account was only Rs 16.95 lakhs and hence the Assessing Officer was not justified in disallowing interest expenditure to the tune of Rs. 138.90 lakhs. The assessee also submitted that it was having two divisions, viz., RT division and PHE division. It was submitted that the borrowed funds have been used for the purpose of business under RT division. The Expansion by way of capital work-in-progress has taken place in PHE division and it was further submitted that the entire capital work in progress has been funded fully out of internal accruals, i.e., no borrowed funds have been used. Since the assessee did not furnish fund flow statement to substantiate its claim, the learned CIT(A) confirmed the disallowance to the extent of Rs.16.95 lakhs, being net interest expenditure claimed by the assessee. Still aggrieved, the assessee has filed this appeal before us.

4. The Learned AR reiterated the contentions made before the learned CIT(A). He further submitted that the assessee has prepared separate Trial balance for both PHE division and RT division and the same would make it clear that capital work-in-progress has been funded fully out of internal accruals. He submitted that the assessee does not have any objection in restoring this issue to the file of the Assessing Officer for examining the factual aspects presented by him.

5. The Learned AR also submitted that own funds available with the assessee is more than the value of work-in-progress and hence as per the principles laid down by Hon'ble Bombay High Court in the case of Reliance Utilities Power Limited (313 ITR 340), the capital work-in-progress should be considered as met out of own funds only. Accordingly he submitted that there is no requirement of making any disallowance out of interest expenditure.

6. The Learned DR, on the contrary, submitted that the assessee has not furnished fund-flow statements to substantiate its claim.

7. We have heard rival contentions and perused the record. The Learned AR submitted that it has prepared separate Trial balance for PHE division and RT division and the same is available at pages 15 to 37 of the paper book. It is the contention of the assessee that work-in-progress has been funded out of own funds and further, the said expansion has taken place in PHE division. It was further submitted that the borrowed funds have been used in RT division and hence interest expenditure is fully allowable as deduction. The assessee also placed reliance on the decision rendered by Hon'ble Bombay High Court in the case of Reliance Utilities and Power Ltd (supra). Since contentions of the assessee requires factual verification, we restore this issue to the file of the Assessing Officer for examining various contentions of the assessee including reliance placed by the assessee in the case of Reliance Utilities and Power Ltd. Accordingly, order passed by the learned CIT(A) on this issue is set aside.

8. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order has been pronounced in the Court on 30.10.2018.

SD/-
(AMARJIT SINGH)
JUDICIAL MEMBER

SD/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 30/10/2018

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Senior Private Secretary)
ITAT, Mumbai

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