

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 983/Ahd/2017

(निर्धारण वर्ष / Assessment Year : 2013-14)

CIL Nova Petrochemicals Ltd. 391/396 Moraiya Village, Sarkhej-Bavla Highway, Sanand, Ahmedabad - 382210	बनाम/ Vs.	Dy. Commissioner of Income Tax Circle-1(1)(2), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AADCN0932G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Bandish Soparkar, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri L. P. Jain, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	21/02/2019
घोषणा की तारीख /Date of Pronouncement	26/02/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax (Appeals)-1, Ahmedabad ('CIT(A)' in short), dated 28.02.2017 arising in the assessment order dated 24.02.2016 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2013-14.

2. The grounds of appeal raised by the assessee read as under:

“1. On the facts & in the circumstances of the case it is most respectfully submitted that the Ld. Commissioner of Income Tax (Appeals) has erred in law and on facts by confirming a disallowance of interest to the extent of 9.75% u/s 36(1)(iii) of the IT Act in respect of capital work in progress.”

3. Briefly stated, the assessee is engaged in manufacturing and trading of POY, FDY & texturized yarn and trading in cloth. The return filed by the assessee for AY 2013-14 was subjected to scrutiny assessment. The assessment was completed under s.143(3) of the Act by making disallowance of interest on account of utilization of borrowed funds towards capital work-in-progress – Rs.17,34,463/- and towards non-interest bearing advances – Rs.8,34,801/-. To delineate, the assessee has shown capital work-in-progress at an amount of Rs.4,83,38,831/- in its balance sheet. The disallowance of interest was made thereon by computing interest @9.75% and accordingly the disallowance was worked out at Rs.17,34,463/-. It was also noticed by the AO that assessee had given advance of Rs.85,62,061/- to Super Nova Polyfeb Pvt. Ltd. for procuring some machineries and accordingly computed disallowance of Rs.8,34,801/- thereon.

4. Aggrieved, the assessee preferred appeal towards such interest disallowances before the first appellate authority. The CIT(A) sustained the disallowance of interest on capital work-in-progress and granted relief for interest disallowance towards interest free advances.

5. Further aggrieved by the part relief, the assessee has preferred appeal before the Tribunal.

6. The learned AR for the assessee at the outset submitted that the issue is squarely covered in favour of the assessee in its own case by the order of the ITAT concerning AY 2012-13 in ITA No. 388/Ahd/2016 order dated 13.08.2018.

7. The learned DR relied upon the order of the CIT(A).

8. We have heard rival submissions. As pointed out on behalf of the assessee, we find that the disallowance of interest on capital work-in-progress was reversed by the co-ordinate bench in assessee's own case in AY 2012-13. The relevant operative part of the order of the ITAT is reproduced hereunder:

“5. With the assistance of the ld.representatives, we have gone through the record carefully. The assessee has placed on record annual report containing the balance sheet and other details. The assessee has reserves and surplus of more than Rs.48 crores. It has internal accrual during the year which can take care of such investments. The ld.counsel for the assessee took us through net cash flow from operations available on page no.20 of the annual report which suggest that the assessee has net cash flow Rs.16,55,474/-. Thus, considering interest free funds available with the assessee in the shape of share capital, reserves and surplus, as well as net revenue from operations, we are of the view that alleged investment in WIP could be assumed as carried from these surplus funds. No notional interest ought to be calculated for capitalization. In order to fortify ourselves, we would like to refer to the decision of Hon'ble Bombay High Court in the case of CIT Vs. Reliance Utilities & Power Ltd., 313 ITR 340 (Bom). In view of the above, this ground of appeal is allowed.”

9. The facts and the circumstances being similar without any material change, we do not see any reason to depart from the view

already taken in this regard. In parity with the findings of the co-ordinate bench, we find that merit in the plea of the assessee. The AO is accordingly directed to delete the addition made on this score.

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

This Order pronounced in Open Court on 26/02/2019

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 26/02/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।