

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

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
and  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.742/Bang/2018  
(Assessment year: 2014-15)

M/s.Unilog Content Solutions Pvt. Ltd.,  
No.11, 15<sup>th</sup> Cross, 20<sup>th</sup> Main, Out Ring Road  
JP Nagar 5<sup>th</sup> Phase,  
Bengaluru-560078. ... Appellant  
*PAN:AADCS 3121 N*

Vs.

Deputy Commissioner of Income-tax,  
Circle 7(1)(1)  
Bengaluru. ... Respondent

Appellant by : Shri C. Ramesh, CA.  
Respondent by : Shri C.H.Sundar Rao, CIT(DR)

Date of hearing: 29/04/2019  
Date of pronouncement: 15/05/2019

**O R D E R**

**Per PAVAN KUMAR GADALE, JM :**

The assessee has filed the appeal against order of the CIT(A)-7, Bengaluru, passed under section 143(3) and 250 of the Income-tax Act,1961 ['the Act' for short].

2. The assessee has raised the following grounds of appeal:

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“The Appellant objects to the Assessment Order on the following grounds in so far as it is prejudicial to the Appellant as it is opposed to law and circumstances of the case:-

1. The CIT (Appeals) was not correct in confirming the additions made by A.O. to the extent of Rs.18,75,120/- towards notional interest though the advanced amount to the wholly owned subsidiary for business purpose and out of commercial expediency
2. The CIT (Appeals) was not correct in not appreciating the facts that the financial assistance is not only prudent but also of utmost necessity as the wholly owned subsidiary was established to give a direct support to US Clients of the Holding Company thereby giving confidence to the Appellant's clients to continue the service orders.

The Appellant craves leave to add, to alter, to amend or to delete any of the grounds that may be urged at the time of hearing of the Appeal.

Wherefore on the above grounds and on such other grounds the Appellant prays the Appellate Authority to delete the additions as above and may pass such other as the Appellate Authority deems fit.”

3. At the time of hearing the learned AR submitted that there is a delay in filing of appeal by 17 days and filed application for condonation of delay for which the Id. DR has no serious objection. Accordingly considering the circumstances and the facts of the case and the reasons envisaged in the condonation petition, we condone the delay of 17 days and admit the appeal.

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4. Brief facts of the case are that the assessee is engaged in the business of IT enabled Services, sale of paintings and gift items and filed the return of income for the assessment year 2014-15 on 29/11/2014 with the total income of Rs.5,74,74,830 and revised return was filed on 13/02/2015 with the same total income. The case was selected for scrutiny under CASS and notice under sections 143(2) and 142(1) of the Act were issued. In response the authorized representative appeared on various days and furnished the details. The AO on perusal of the financial statement found that the assessee has advanced loans to subsidiary concern M/s.Unilog LLC at USA, providing loan of Rs.1,56,26,000/- and charged interest on such loan at the rate of 1.25% p.a. Whereas the assessee has incurred interest cost of Rs.20,90,815/- and interest is paid at 20% to the financial institutions. Therefore, the AO applied the provisions of 36(1)(iii) of the Act and is of the opinion that the main purpose of advance to subsidiary company as envisaged is to give direct support to the US clients but commercial expediency could not be explained by the assessee. Whereas the assessee filed written submissions that the assessee-company is

benefited by subsidiary company in providing direct support to the US clients and the assessee has also direct business dealings with subsidiaries in the same line of business. The financial benefit derived from the subsidiary companies increases the business of the assessee-company. But was not satisfied with the explanation and referred to the judicial decisions and worked out interest at 12% p.a. on the closing balance of advance being Rs.18,75,120/- and assessed the total income of Rs.5,93,49,950/- and passed the order under section 143(3) of the Act dated 17/10/2016.

5. Aggrieved by the order, the assessee filed appeal with the CIT(A). Whereas the CIT(A) has accepted the findings of the AO and confirmed the addition and dismissed the assessee's appeal.

6. Aggrieved by the order, the assessee has filed appeal before The Tribunal.

6.1 The learned AR submitted that the CIT(A) erred in confirming the addition as the loan was granted to the

subsidiary company in the earlier year for the purpose of business participation and also the assessee charged interest at 1.25% which the AO has overlooked these facts and made addition at 12% on the closing balance. The learned AR also filed written submissions and judicial decisions to substantiate the concept of commercial expediency and also that no loan was advanced in the financial year 2013-14 and supported his submissions with paper book and judgments.

6.2 Contra, the learned DR supported the order of the CIT(A). The learned DR vehemently argued that loan was diverted to the subsidiary company and the assessee is claiming interest burden and prayed for dismissing the appeal.

7. We heard rival submissions and perused material on record. The sole crux of the disputed issue is with respect to charging of interest by the AO on the loan granted to subsidiary company by the assessee and the AO charged interest @ 12% p.a. but assessee has charged interest at 1.25% p.a. in the books of account. The learned

AR filed written submissions and submitted that the loan was given to the subsidiary company in the earlier years and no transaction of loan/advance in the financial year 2013-14. The learned AR also substantiated his stand referring to pages 37 to 39 of the paper book with the details of interest components and also referred to loan Agreement at page 39 of paper book between assessee and its subsidiary company M/s.Unilog LLC at USA and operating agreement at page 44. The contention of the learned AR is that interest chargeability does not arise in respect of business participation by the assessee and the subsidiary company is helping to increase volume of the business of the assessee. When a query was raised to the learned AR whether any loan transaction was squared off during the financial year, the learned AR explained that the AO has charged interest on the closing balance and there is no loan transaction in the financial year. The learned AR relied on the financial statements in particular to liabilities schedule 12 where long-term loans and advances were classified. We found strength in the submissions of the learned AR. As envisaged by the learned AR no fresh loan provided to the subsidiary, on

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perusal of the Balance-sheet we found the AO has charged interest on the closing balance of loan (which included interest also) which is not correct. Further the assessee is charging interest at 1.25% on loan which works out to Rs.1,98,055/- and the said interest component was not considered by the AO while calculating interest. We find that the learned AR has been emphasizing vehemently that there is commercial expediency but on perusal of the orders of the lower authorities, though the assessee relied on the judicial decision but the commercial expediency could not be proved to the satisfaction of the assessing authority and the learned AR has now filed material to substantiate the commercial expediency. These facts are to be verified and examined and accordingly, in the interest of substantial justice, we restore this issue to the file of the AO to examine and verify the commercial expediency as envisaged by the learned AR before us and further the judicial decisions relied in support of commercial expediency and the assessee shall be provided adequate opportunity of hearing and shall co-operate in submitting relevant materials and details to the satisfaction of the AO to substantiate that advance was

provided to subsidiary comes within the purview of the commercial expediency. Accordingly, we remit this issue to the file of the AO and allow the grounds of appeal of the assessee for statistical purposes.

8. In the result appeal of the assessee is allowed for statistical purposes.

*Order pronounced in the open court on 15<sup>th</sup> May, 2019.*

Sd/-

**(B.R. BASKARAN)**  
**ACCOUNTANT MEMBER**

Place : Bengaluru  
Date : 15/05/2019  
*srinivasulu, sps*

Sd/-

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

**Copy to :**

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

By order

Assistant Registrar  
Income-tax Appellate Tribunal  
Bangalore