

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'B', NEW DELHI)**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND**

**SH. K. N. CHARY, JUDICIAL MEMBER**

**ITA No:-7168/Del/2018**

**(Assessment Year: 2014-15)**

WEL Intertrade (P) Ltd. 5E Local Shopping Centre Masjid Moth, Greater Kailash II New Delhi	Vs.	Assistant Commissioner of Income Tax Circle – 27 (2) New Delhi
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Sh. C. S. Aggarwal, Sr. Advocate  
Sh. Ravi Pratap Mall, Advocate

**Revenue by** : Sh. Abhishek Kumar, Sr. DR

**Date of Hearing** : 15.05.2019

**Date of Pronouncement** : 03.06.2019

**ORDER**

**PER: N. K. BILLAIYA, AM**

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals]-9, New Delhi, dated 20.09.2018 for Assessment Year 2014-15.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in sustaining the disallowance of expenditure of Rs.7180275/- which represented amount of interest paid on the sums borrowed by the

assessee in the preceding assessment year. The CIT(A) further erred in sustaining a disallowance of Rs.55741498/- which represented amount of interest paid on borrowed capital.

3. Facts as emanating from the assessment order show that the assessee has claimed interest of Rs.819161817/- as expenditure. The details of the interest can be understood from the following chart :-

S.NO.	Particulars	Interest of Amounts	Total Interest	Remarks
A	Interest Daid on Secured loan			Rs. 23,56,548/- claimed House Property Income - Interest amount u/s 24(b).
1	ING Vaisya Term Loan NING	7,213,187	63,714,525	
2	Vaisya O.D. A/c Axis Bank Loan	4,011,066		
3	A/c Axis Bank O.D. A/c Yes Bank	11,146,579		
4	Loan A/c	11,626,228		
5		29,717,465		
B				

	<u>Interest paid on ICD</u>			
1	Glorisius Holding Pvt. Ltd.	2,393,425	15,282,946	
2	Kailor Kutir Pvt. Ltd.	2,393,425		
3	New KMS Finance Pvt..Ltd.	2,393,425		
4	Kirti Tracon Pvt. Ltd.	2,327,671		
5	Binagur. Tea Co. Pvt. Ltd.	5,775,000		
C	<u>Loan process Fee:</u>			Paid to Yes Bank for Senction of loan for Rs. 5 cr. Paid to ING Vysya Bank fornewewal of OD a/c. Paid to Axis Bank for renewal of OD a/c.
1	Process Fee paid to Yes Bank	2,539,336	2,957,343	
2	Process Fee paid to ING Vysaya Bank	193,287		
3	Process Fee paid to Axis Bank	224,720		
D				
1	<u>Interest on Taxes:</u>	4,030	7,002	
2	Interest on Service Tax Interest on TDS	2,972		
	<b>Total</b>	<b>81,961,817</b>	<b>81,961,817</b>	

4. The Assessing Officer was of the opinions that since the loan of Rs.4.50 crores have been treated as income of the assessee u/s. 68 of the Act in A. Y 2013-14 interest of Rs.7180275/- cannot be allowed.

5. The Assessing Officer further found that the assessee has given interest free advances to the following parties :-

- (i) New Delhi Estates Private Limited
- (ii) Flourish decorative Private Limited
- (iii) Arshiya Lifestyle Ltd.,

6. The assessee was asked to explain why the advances were made to these persons on which no interest was charged. The assessee filed a detail reply explaining that the advances were made for business purposes. The reply of the assessee did not find any favour with the Assessing Officer who was of the opinion that the interest bearing funds have been diverted to interest free advances and computed the proportionate disallowance of interest at Rs.55741498/-.

7. The assessee agitated the matter before the CIT (A) but without any success.

8. Before us the counsel for the assessee stated that all the advances are coming from earlier assessment years when no disallowance was made. The counsel further stated that assessee was having sufficient

interest free funds available with it and, therefore, the disallowance made by the Assessing Officer are uncalled for and deserves to be deleted.

9. The DR strongly supported the findings of the Assessing Officer.

10. We have carefully considered the orders of the authorities below. In so far as the unsecured loan of Rs.4.50 crores is concerned the same has been deleted by the Tribunal in ITA No.7166/Del/2018 vide order dated 03.06.2019. Since the unsecured loan has been accepted as such the Assessing Officer is directed to allow interest paid on such borrowings amounting to Rs.7180275/-.

11. In so far as the interest expenditure of Rs.55741498/- is concerned. The undisputed fact is that the advances are coming from earlier assessment years and the same can be understood from the following chart :-

Assessment year	Fresh amounts advanced	Opening balance	Closing balance
2010-11	Rs.4,68,20,703/-	Rs.19,11,28,829/-	Rs.23,79,49,532/-
2011-12	Rs.2,97,83,315/-	Rs.23,79,49,532/-	Rs.24,03,21,786/-
2012-13	Rs.11,71,308/-	Rs.24,03,21,784/-	Rs.14,82,50,879/-

2013-14	Rs.55,38,66,196/-	Rs.14,82,50,879/-	Rs.70,16,17,075/-
2014-15	Rs.6,47,41,720/-	Rs,71,00,68, 931	Rs.77,53,10,651/-

12. It is true that no disallowance were made in earlier assessment years. It can be seen that only Rs. 64741720/- have been advanced during the year under consideration. We find that the interest free funds available with the assessee at the beginning of the year was Rs.326032309/-. Thus, it can be safely concluded that the said interest free advances have been given out of interest free funds available with the assessee.

13. In our considered view on given facts as discussed here in above no disallowance is to be made. We direct the Assessing Officer to delete the addition of Rs.55741498/- also.

14. In the result, the appeal filed by the assessee is accordingly allowed.

Order pronounced in the open court on 03.06.2019.

**(K.N.CHARY)**  
**JUDICIAL MEMBER**

Dated: 03.06.2019  
Neha

**(N.K.BILLAIYA)**  
**ACCOUNTANT MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	20.05.2019
Date on which the typed draft is placed before the dictating Member	20.05.2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	