

IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH : BANGALORE

BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No.1110/Bang/2016
Assessment year : 2009-10

The Dy. Commissioner of Income-tax , Circle-7(2)(2), Room No.241, 2 nd Floor, BMTc Building, 80 ft Road, Koramangala, Bengaluru-560 095.	Vs.	M/s VSL Steels Ltd., (earlier known as M/s SLR Steels Ltd.,) Paramenahally Village, Hiriyr Taluk, Chitradurga Dist., Karnataka-572 143. PAN – AAICS 1510 N
APPELLANT		RESPONDENT

Appellant by	:	Shri R.N Siddappaji, Addl. CIT (DR)
Respondent by	:	Shri S Ramasubramanyam, C.A

Date of hearing	:	11.07.2019
Date of Pronouncement	:	24.07.2019

ORDER

Per B.R Baskaran, Accountant Member

The appeal filed by the Revenue is directed against the order dated 12/2/2016 passed by Id CIT(A), Gulbarga and it relates to asst. year 2009-10.

2. The Revenue is aggrieved by the decision rendered by Id CIT(A) on the following issues:-

a) Disallowance of prior period expenses.

- b) Disallowance of travelling and loan processing charges
- c) Disallowance of donations and charity

3. The assessee is engaged in the business of manufacturing of pig iron. The assessment for the year under consideration was completed by the AO u/s 143(3) of the Act by making various additions. The assessee preferred an appeal before the Id CIT(A), which was partly allowed. The Revenue has filed this appeal challenging the relief granted by the Id CIT(A) on the above said issues:-

4. The first issue relates to disallowance of prior period expenses. The AO noticed that the assessee has claimed prior period expenses amounting to Rs.55.14 lakhs. Since the assessee was following mercantile systems of accounting, the AO took the view that the same is not allowable and accordingly disallowed the same. The Id CIT(A) however allowed the same by following the decision rendered by Mumbai Bench of Tribunal in the case of Urban Improvement Company Pvt. Ltd., (ITA No.3246/Bang/2006).

5. The Id DR submitted that the assessee is following mercantile system of accounting and hence prior period expenses are not allowable during the year under consideration. He further submitted that the decision in the case relied on by the CIT(A) was rendered in a different context.

6. We heard Id AR and perused the record. It is a settled proposition that the expenses relating to earlier years may be

allowed during the year, if the same got crystallized during the year under consideration. The Mumbai bench has followed this principle only in the case relied upon by Ld CIT(A). However, we noticed that the assessee has failed to show that the prior period expenses claimed by it did crystallize during the year under consideration. Accordingly we are of the view that the Ld CIT(A) was not justified in granting relief. Accordingly we reverse the order passed by Ld CIT(A) on this issue.

7. The next issue relates to disallowance of travelling and loan processing expenses incurred in connection with new project in Dubai. Since the above expenses were incurred for the new project, the AO held them to be capital expenses and accordingly disallowed the same. The Ld CIT(A) deleted the same by observing that the AO has not established any base for his statement that the expenditure was incurred for new project.

8. We heard the parties on this issue. Since the expenditure has been incurred for exploring new business which was considered by the AO as new project, the AO has disallowed the same. We noticed that the Ld CIT(A) has deleted the addition by making general observations and not on proper reasons. If the assessee has established new project, then the expenses incurred thereon would be capital expenditure. On the contrary, if the expenses are incurred for expansion of existing business, then the same shall be allowed as revenue expenditure. In the instant case, since the Ld CIT(A) has not given any specific finding and further the relevant details regarding the project are not available, we set aside the order

passed by Id CIT(A) on this issue and restore the same to this file for examining it afresh.

9. The next issue relates to disallowance of donations and charity expenses claimed by the assessee. The AO disallowed the same by holding that the donation and charity expenses do not have any nexus with the business activities of the assessee. The Id CIT(A) however, allowed the same by observing that these kind of expenses are necessary for running the business activity of the assessee.

10. We heard the parties on this issue and perused the record. We noticed that though the Id CIT(A) has observed that the donations given by the assessee are necessary for carrying on business of the assessee, yet the Id CIT(A) has not shown any nexus between the business activities and expenses of the assessee. Accordingly we are of the view that the Id CIT(A) was not justified in deleting these disallowance. Accordingly we reverse the order passed by the Id CIT(A) on this issue.

11. In the result, the appeal of the Revenue is treated as allowed.

Order pronounced in the Open Court on 24th **July, 2019.**

Sd/-
(Beena Pillai)
Judicial Member
Bangalore,
Dated, 24th July, 2019.
/ vms /

Sd/-
(B.R Baskaran)
Accountant Member

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore.

1. Date of Dictation
2. Date on which the typed draft is placed
before the dictating Member
3. Date on which the approved draft comes to Sr.P.S
.....
4. Date on which the fair order is placed
before the dictating Member
5. Date on which the fair order comes back to the Sr.
P.S.
6. Date of uploading the order on
website.....
7. If not uploaded, furnish the reason for doing so
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Dictation note enclosed
8. Date on which the file goes to the Bench Clerk
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11. The date on which the file goes to the Assistant
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12. The date on which the file goes to dispatch section for
dispatch of the Tribunal Order
13. Date of Despatch of Order.
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