

IN THE INCOME TAX APPELLATE TRIBUNAL

“A” BENCH : BANGALORE

BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND

SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

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| ITA Nos. 1125 & 2427/Bang/2018 |
| Assessment Years : 2014 – 15 & 2015 – 16 |

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| M/s Tile Italia Mosaics Pvt. Ltd., 508, 15 th Main, Koramangala, 3 rd Block, Bengaluru – 560075. PAN: AABCA6924B | vs. | DCIT, Circle – 7 (1 (1), Bangalore. |
| APPELLANT | | RESPONDENT |
| Assessee by | : | Shri B. S. Balachandran, Advocate |
| Revenue by | : | Smt. Padma Meenakshi , JCIT (DR) |
| Date of hearing | : | 26.08.2019 |
| Date of Pronouncement | : | 28.08.2019 |

ORDER

Per Shri A. K. Garodia, Accountant Member

Both these appeals are filed by the assessee and these are directed against the order of CIT (A) – 7, Bangalore dated 01.02.2018 for A. Y. 2014 – 15 and dated 20.06.2018 for A. Y. 2015 – 16. Both these appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. Although several grounds are raised in each of these appeals but the effective grievance is about disallowance of interest on the basis of this common allegation that the assessee has diverted the funds to sister concern without charging interest. In A. Y. 2014 – 15, this is the allegation of the AO on page 3 of the assessment order that the assessee diverted the funds to the tune of Rs. 117.96 lacs and in this year, the AO disallowed an amount of Rs. 14.15 Lacs out

of interest. Similarly, in A. Y. 2015 – 16, this is the allegation of the AO on page 3 of the assessment order that the assessee diverted the funds to the tune of Rs. 76,59,422/- and in this year, the AO disallowed an amount of Rs. 919,130/- out of interest. In both years, the assessee carried the matter in appeal before CIT (A) but without success and now, the assessee is in further appeal before the tribunal.

3. Both sides were heard. This was the main submission of the learned AR of the assessee that the Balance Sheet of the assessee company as on 31.03.2014 is available on page 24 of the paper book and as per the same, own funds is of Rs. 427.96 lacs as against alleged diversion of funds of Rs. 117.96 Lacs. He submitted that as per various judgments of various High Courts including that of Hon'ble Karnataka High Court, if the interest free funds available with the assessee is more than such interest free advances or investments than it should be presumed that such interest free advances are out of interest free funds available with the assessee and hence, no disallowance is called for out of interest expenditure. He submitted that recently in the case of CIT vs. Reliance Industries Ltd. In Civil appeals Nos. 11 to 13 of 2019 dated 02.01.2019, it is held by Hon'ble Apex Court also that it could be presumed that the investment were made from the interest free funds. He submitted a copy of this judgment of Hon'ble Apex court and drawn our attention to page 2 & 3 of this judgment. He pointed out that this was the question raised before Hon'ble apex court that whether interest referable to funds given to subsidiaries is allowable as deduction u/s 36 (1) (iii) when interest would not have been payable to banks if funds were not provided to subsidiaries and this question was decided in favour of the assessee. He submitted that in the present case also, interest free funds available with the assessee is much more than the alleged interest free advances and therefore, no disallowance is justified out of interest. Learned DR of the revenue supported the orders of the lower authorities. She also submitted that interest free advances were given in earlier years and the assessee has to establish that interest free funds were available with the assessee when interest free advances were given.

4. We have considered rival submissions. We find that as per the Balance Sheet of the assessee company as on 31.03.2014 available on page 24 of the

paper book, own funds is of Rs. 427.96 lacs as against alleged diversion of funds of Rs. 117.96 Lacs. Hence, respectfully following this judgment of Hon'ble Apex Court, we hold that in the facts of present case, the disallowance of interest is not justified and we delete the same in both years.

5. In the result, both the appeal of the assessee are allowed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(N. V. VASUDEVAN)
VICE PRESIDENT

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 28th August, 2019.
/MS/

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

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.