

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D": NEW DELHI
BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
AND
SHRI K.N.CHARY, JUDICIAL MEMBER

ITA No. 2430/Del/2016
(Assessment Year: 2011-12)

DCIT, Circle-10(1), New Delhi	Vs.	M/s. Getit Infoservices Pvt. Ltd, GYS Heights, Plot Not. 10- 11, 2 nd Floor, Tower-C, Sector-125, Noida
(Appellant)		(Respondent)

Revenue by :	Smt Naina Soin Kapil, Sr. DR
Assessee by:	None
Date of Hearing	19/08/2019
Date of pronouncement	14/11/2019

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This appeal is preferred by the Id Deputy Commissioner of Income Tax, Circle 10(1), New Delhi (the Id AO) against the order of the learned Commissioner of Income Tax (Appeals)-4, New Delhi dated 04/02/2016 for Assessment Year 2011-12 raising following grounds of appeal:-.

- "1. That on the facts and circumstances of the case and in law, the Id CIT(A) erred in deleting the addition made by AO on account of proportionate interest u/s 36(1)(iii) of the Act without appreciating the fact that the assessee company had diverted its funds by giving the same as interest free to its subsidiary company and on the other hand claiming the interest expenses on borrowed funds.*
- 2. That on the facts and circumstances of the case and in law, the Id CITA) erred in deleting the addition made by AO of Rs. 2,61,00,000/- on account of disallowance of prior item due to change in accounting policy without appreciating the fact that the accounting policy as adopted by the assessee is in violation of the provisions of section 145 of the IT Act."*

2. The brief fact of the case shows that assessee is a company engaged in the business of publishing and distribution of directories with Yellow Pages and industrial directories. It filed its return of income declaring

loss of Rs. 44,26,96,484/- on 30/09/2012. The assessment u/s 143 (3) of the Income Tax Act, 1961 was passed on 31/07/2014 wherein the learned Assessing Officer made a disallowance of Rs. 95,48,721/- on account of the interest expenditure for giving interest free advances of Rs. 7,95,72,681/- computing interest disallowance thereon @ 12% of Rs. 95,48,721/-. The other disallowance was on account of change in the accounting policy of Rs. 2,61,00,000/-. Consequently, the assessment was made at loss of Rs. 40,70,47,760/-.

3. The assessee aggrieved with the order of the learned Assessing Officer preferred an appeal before the learned CIT(A) who deleted the disallowance of interest expenditure of Rs. 95,48,721/- as per para No. 4 of his order. He also deleted the addition of Rs. 2,61,00,000/- on account of change in accounting policies also thus he allowed the appeal of the assessee. Therefore, the learned Assessing Officer aggrieved with that order has preferred appeal before us.
4. The learned Departmental Representative contesting both the above disallowance relied upon the order of the learned Assessing Officer and submitted that the learned CIT(A) has deleted the addition without any basis.
5. Despite notice none appeared on behalf of the assessee and therefore, the issues are decided in absence of the assessee as per information available on record on the merits.
6. The 1st ground of appeal is against the deletion of disallowance of Rs. 95,48,721/- out of interest expenditure u/s 36(1)(iii) of the Act. During the course of assessment proceedings the AO noted that the assessee company has advanced a sum of Rs. 7,95,72,681/- to its subsidiary company and has not charged any interest thereon whereas it is claimed the interest expenditure as allowable amounting to Rs. 6,27,54,992/-. Therefore, the learned Assessing Officer computed the interest disallowance @12% on the interest free advances given to its subsidiary

amounting to Rs. 95,48,721/-. In the appellate proceedings the learned CIT(A) noted that the interest free advances given to the subsidiary company is out of the own funds of the assessee of equity and reserve. Further, he noted that the advances have been given to the assessee only to subsidiary which is also engaged in similar line of the business of printing and publishing and that the funds have been advanced as business strategy of the company to expand business operation out of commercial expediency. In view of the above facts and the categorical finding of the learned CIT(A) that assessee has stated that it has interest free funds in the form of share capital and free reserve amounting to Rs. 27.83 crores at the beginning of the year and Rs. 74.83 crores at the end of the year, the presumption lies in favour of the assessee that the amount of interest free funds given to its 100% subsidiary is out of interest free funds available with it. Even otherwise the learned CIT(A) has also held that the advances were given for business purpose. In view of this, we do not find any infirmity in the order of the learned CIT(A) and therefore dismiss ground No. 1 of the appeal of the Assessing Officer.

7. The 2nd ground of appeal is against the deletion of the disallowance of Rs 261,00,000/- on account of disallowance of prior period item due to the change in accounting policy. As it is evident that the assessee is engaged in the business of publishing Yellow Pages and business directories through print media. It derived its revenue from advertisement published in the said directories. Up to Financial Year 2009-10, assessee was following accounting policy to recognise revenue from said advertisement on completion of canvas of the respective directories and not on the printing and publishing of the said directories when the related advertisement or commercial appears before the public. It took time and would spill over the following years. As the provisions of section 145 of the Income Tax Act as well as the accounting standard – 9 issued by the MCA came into force, assessee company changed its accounting policy of recognising revenue from the advertisement when the printing of

directories are complete and comes to the public domain instead of on completion of canvas as there was a sufficient time lag between canvas close and physical printing of the directories considering that the obligation of customers is only complete on physical printing of directories and their appearance in the public. Therefore, in the notes on accounts on accounts in schedule N attached to the financial statement at SI No. 3 the necessary adjustments have been made in the balance sheet of the current year as on 31st of March 2011 relevant to the Assessment Year 2011-12 in respect of inventory, sundry debtors, current liabilities and provisions amounting to Rs. 2,61,08,343/- on account of change in the accounting policies. The learned CIT(A) noted that assessee has already offered the above amount as income in assessment year 2010-11 and therefore, it would amount to double addition, if the same is also required to be added for assessment year 2011-12. For this reason primarily, the learned CIT(A) deleted the addition. We do not find any infirmity in the order of the learned CIT(A) in deleting the above addition. In view of this ground No. 2 of the appeal of the learned Assessing Officer is dismissed.

8. In view of this appeal of the learned Assessing Officer is dismissed.

Order pronounced in the open court on 14/11/2019.

-Sd/-
(K.N.CHARY)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated:14/11/2019
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi