

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: "A" NEW DELHI**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No. 6843/Del/2015
Assessment Year: 2012-13**

PrecomecAutocompPvt. Ltd., Plot No.9-D, Sector-6, Faridabad. AABCP 7551K Appellant	Vs	DCIT, Circle-1, Faridabad Respondent
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**Assessee by Sh. Rajneesh Behari Mathur, CA
Revenue by Sh. Sanjog Kapoor, Sr. DR**

**Date of Hearing 12.12.2019
Date of Pronouncement 18.12.2019**

ORDER

PER K. NARASIMHA CHARY, JM

Aggrieved by the order dated 3/11/2015 in appeal No. 16/2014-15 passed by the learned Commissioner of Income Tax (Appeals), Faridabad ("Ld. CIT(A)"), for assessment year 2012-13, PrecomecAutocompPvt. Ltd filed this appeal.

2. Brief facts of the case are that the assessee is engaged in the business of manufacturing of sheet metal components. For the assessment year 2012-13 it has filed its return of income on 25/9/2012 declaring an income of Rs.5,31,44,102/-. During the course of assessment, learned Assessing Officer noticed that the assessee had made interest-free advance

of Rs. 1,71,22,185/- to HUDA in respect of plot No. 308, sector-59, Faridabad. He therefore called for justification of such advance towards business purpose of investment. Assessee submitted that they have their own adequate funds in the form of Capital & Reserve, unsecured loan from directors, secularist hypothecation of stocks and bookplates and charge on immovable assets of the company and personal guarantee of directors, out of which, it advanced to HUDA. Assessee, therefore, claimed that no loan was taken for payment of HUDA plot No. 308.

3. Learned Assessing Officer, however, did not agree with the assessee and observed that perusal of the Balance Sheet shows that the assessee had own funds to the tune of Rs.15,40,26,226/- on account of Reserves and surplus which has to be considered as interest-free fund. According to the Assessing Officer out of this interest-free fund, assessee had shown tangible assets of Rs. 6,37,20,541/-, inventories of Rs.2,81,65,746/-, long-term loans and advances of Rs. 1,58,39,329/- and a trade receivable which exceeds from trade payables to the tune of Rs. 8,07,53,325/-. He, therefore, concluded that since the amount of applied capital of Rs.18, 84,79,941/- exceeds the interest free funds of Rs. 15,40,26,226/-, the assessee had diverted the interest-bearing funds of Rs. 1,71,22,185/- for HUDA plot. Learned Assessing Officer, therefore, brought the interest at 12% per annum on the amount invested by the assessee in such plot to tax and made an addition of Rs. 12,29,228/- on that account.

4. Aggrieved by such an addition assessee preferred an appeal before the Ld. CIT(A). By way of impugned order Ld. CIT(A) observed that the assessee has not established that the borrowed funds were utilised for the purchase of the plot, the assessee in fact had to furnish a copy of his bank

account to establish that the payment made for the purchase of the plot was from its own funds and not from any borrowed funds/overdraft account, and therefore, the contention of the assessee does not merit consideration. Ld.CIT(A), however, granted relief to the assessee in respect of the interest relatable to the amount of Rs. 67,33,750/- to financial year 2010-11 i.e. assessment year 2011-12 and directed deletion of Rs. 8, 14, 050/-.

5. Aggrieved by the order of the Ld. CIT(A) sustaining the addition to the tune of Rs. 4,15,178/- under section 36 (1)(iii) of the Act out of the interest expense claimed by the assessee on the ground that it pertained to the notional interest for the period prior to the purchase of asset of HUDA plot No. 308, assessee preferred this appeal and contended that the authorities below failed to appreciate the financials of the assessee in concluding that the assessee had utilised the borrowed funds for purchase of the plot. According to the assessee the Balance Sheet clearly speaks the availability of funds to the tune of Rs. 1,03,35,229/- with the assessee as on 31/3/2012 and the authorities below failed to appreciate the entries of the Balance Sheet in their proper perspective.

6. Per contra, it is the submission on behalf of the Revenue that since the assessee maintained only overdraft account and all the transactions are done through it, it was not clear from the Bank statement of the overdraft account as to whether the assessee utilised its own funds or the funds borrowed, and therefore, the authorities are justified in adding the notional interest on the value of the plot purchased.

7. We have gone through the record in the light of the submissions made on either side. From the beginning, the contention of the assessee has

been that it had adequate own funds in the form of Capital & Reserve, unsecured loan from the Directors, secured loan against hypothecation of stocks and book debts and charge on immovable assets of the company and personal guarantee of directors, out of which, it advanced to HUDA. According to the learned Assessing Officer the applied capital of Rs. 18,84,78,941/- exceeds the interest free funds of the assessee at Rs. 15,40,26,226/-. This is the reason why the learned Assessing Officer held that the assessee had borrowed the interest-bearing funds of Rs. 1,71,22,185/- with HUDA from which it had not received any income.

8. We have gone through the Balance Sheet of the assessee as on 31/3/2012. It is clear that there is an increase in the Reserves & Surplus by Rs. 3,53,70,562/- inasmuch as by the end of the year 2011 the figure was Rs.11,61,53,664/- and by the end of the year 2012 it was at Rs.15,15,26,226/-. So also, there is an increase in the current liabilities by Rs. 2,61,33,825/- from the year 2011 being the cumulative figure of the change in trade payables, certain provisions and other current liabilities which were at Rs. 4,69,14,938/- at the end of the year 2011 whereas it was Rs.7,30,48,763/- by the end of 2012. It is therefore clear that the increase in reserves and also the increase in current liabilities comes to Rs. 6 15,04,387/-.

9. So also, there is a decrease in the borrowings by Rs. 65,42,217/-, increase in long-term advance by Rs.39,98,026/- and increase in current assets by Rs. 4,06,28,915/-, the cumulative figure of which comes to Rs. 5,11,69,158/-. According to the Ld. AR, the difference between the available funds to the tune of Rs. 6,15,04,387/- and utilised funds to the tune of Rs. 5,11,69,158/- leaving the availability of net funds to the tune of Rs.

1,03,35,229/- in the hands of the assessee to invest in the plot. In addition to this the current year earnings of the assessee were declared at Rs. 5,31,44,102/-.

10. Insofar as these figures as to the funds available and funds utilised and the earnings of the assessee during the year are concerned, these are all borne by record and do not admit of any dispute or doubt. Ld. DR does not contradict these figures available from the Balance Sheet and the return of income. In this factual scenario, we find strength in the argument of the Ld. AR that the assessee is possessing sufficient financial capacity to meet the burden of purchase of plot from out of their own funds and such purchases does not require any borrowings. In fact, it was so pleaded by the assessee before the learned Assessing Officer and also before the Ld. CIT(A) that no loan was taken for payment of HUDA plot No. 308.

11. In the circumstances, basing on the record, we are convinced that the assessee had the capacity to advance the funds for plot No. 308 to HUDA out of their own funds available in the hands and there does not appear to be any necessity for them to take loan for such payment. We therefore, accept the contentions of the assessee and find that the impugned addition is not sustainable. We accordingly allow the grounds of appeal, and direct the Assessing Officer to delete the addition.

12. In the result, appeal of the assessee is allowed.

Order pronounced in the Open Court on 18th December, 2019.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER
Dated: 18th December, 2019
'aks'

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER