

**SIN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES : "C", BANGALORE**

**BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER
And
SHRI P.K.GADALE, JUDICIAL MEMBER**

ITA No.146(Bang)/2019
(Assessment year: 2013-14)

M/s Vectra Investments Pvt.Ltd.,
No.15, 1st Main Road, 6th Cross,
Gandhinagar,
Bangalore-560 009
Pan No.AAACV4971C

Appellant

Vs

The Asst. Commissioner of Income Tax,
Circle-7(1)(2),
Bangalore

Respondent

**Appellant by: Shri Shailesh Kumar, CA
Revenue by : Smt. R.Premi, JCIT**

**Date of hearing : 24-02-2020
Date of pronouncement :**

ORDER

PER A.K.GARODIA, AM:

This appeal is filed by the assessee and the same is directed by the order of the ld.CIT(A)-Bangalore dated 07-12-2018 for the assessment year : 2013-14.

2. The grounds raised by the assessee are as under;

1. "That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the order passed by Ld. AO, in disallowing depreciation claimed by the Appellant amounting to Rs. 4,49,100 in

respect of plant & machinery given on lease by Appellant in course of its business.

2. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the disallowance of interest on borrowing amounting to Rs. 1,66,92,985 under section 36(1)(iii) of the Act incurred by the Appellant, under the presumption that these have not been incurred for the purposes of the business of the Appellant, without appreciating the nature of business carried out by the Appellant and principles laid down under various judicial precedents.

3. All of the above Grounds of Appeal are independent of and without prejudice to one another. Furthermore, the Appellant craves leave to add to or alter, by deletion, substitution or otherwise, any or all of the foregoing grounds of appeal at or before the hearing, and to submit such statements, documents and papers as may be considered necessary either at or before the appeal”.

In the course of hearing, it was submitted by learned AR of the assessee that ground no.1 of appeal regarding depreciation claimed by the assessee and disallowed by the AO in respect of plant & machinery given on lease by the assessee in the course of business is covered in favour of the assessee by the Tribunal order in assessee's own case for the assessment year 2010-11, 2011-12 & 2012-13 in ITA Nos.1429 to 1431(Bang)/2018 by order dated 31-07-2019. He submitted a copy of the Tribunal order and drawn our attention to para-10 of this Tribunal order and pointed out that as per this para the Tribunal has rejected this claim in the earlier year and in the present year also the assessee's claim may be rejected on similar line. Accordingly, ground no.1 of the

assessee is rejected by respectfully following the Tribunal order in assessee's own case.

3 Regarding ground no.2 it was submitted that this issue was also before the Tribunal in earlier years and para-28 of this Tribunal order is relevant in this regard. He pointed out that as per this para the Tribunal held in that year the assessee had borrowed loan @14% and the SBI rate was 12% and therefore, the Tribunal had confirmed the disallowance to the extent of 2% of the loan advanced by the assessee to M/s Vectra Advanced engineering Pvt.Ltd., He submitted that in the present year also dispute is regarding advancement of loan by the assessee to the same sister concern M/s Vectra Advanced engineering Pvt.Ltd., at the rate of 9% existed as against 15.5% paid by the assessee on its borrowings and the AO disallowed interest to the extent of difference of 15.5% and 9%. He submitted that in the present year also disallowance is to be restricted to 2% of the money advanced by the assessee company to the sister concern M/s Vectra Engineering Pvt.Ltd., as in earlier years. In the return submissions filed by the assessee it has been submitted that SBI lending rate in the present year was 14.5% as against 12% in AY: 2012-13 and therefore, disallowance should be restricted to 1% being the difference between interest paid by the assessee at 15.5% on its borrowing and SBI lending rate at 14.5%.

The Id. Dr of the revenue supported the orders of Id.CIT(A).

We have considered the rival submissions. We find that as per the earlier Tribunal order in assessee's own case the issue was decided on this basis that the disallowance of interest should be restricted to the extent of difference the rate at which the assessee borrowed funds and 12% being SBI during the relevant period. In that year, assessee

borrowed loan at 14% and hence, the disallowance was restricted to 2% of the money advanced by the assessee to its sister concern. In the present year this is the claim of the assessee previously lending rate of SBI was as against 12% in AY: 2012-13, but no evidence in this regard was made available before us. Hence, we feel it proper to restore the matter back to the file of Id. CIT(A) for a fair decision in the light of the Tribunal order for : 2013-14 in assessee's own case as per which it was held that the disallowance should be restricted to difference between the rate at which the assessee company borrowed funds on SBI lending rate during the relevant period. The assessee should bring on record before the Id.CIT(A) evidence regarding SBI lending rate in the present year and thereafter, the issue should be decided by the Id.CIT(A) by following the Tribunal order in assessee's own case.

In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on

(P.K.GADALE)
JUDICIAL MEMBER

(A.K.GARODIA)
ACCOUNTANT MEMBER

Dated:

***am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

By Order
Asst.Registrar

