

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH : BANGALORE  
BEFORE SHRI. B. R. BASKARAN, ACCOUNTANT  
MEMBER**

**AND**

**SMT. BEENA PILLAI, JUDICIAL MEMBER**

|                                  |
|----------------------------------|
| <b>ITA No.2725/Bang/2017</b>     |
| <b>Assessment Year : 2013-14</b> |

|   |            |  |
|---|------------|--|
| M/s Wartyhully Estates Ltd.,<br>Tower – B, 9 <sup>th</sup> Floor,<br>Airport Road, Domlur,<br>Bengaluru-560 008.<br><br><b>PAN : AAACW 1666 R</b> | <b>Vs.</b> | The Income-tax Officer,<br>Ward-7(1)(4),<br>Bengaluru. |
| <b>APPELLANT</b>  |            | <b>RESPONDENT</b>                                      |

|               |   |                             |
|---------------|---|-----------------------------|
| Appellant by  | : | Shri S Ramasubramanyam, C.A |
| Respondent by | : | Smt. R Premi, JCIT          |

|                       |   |            |
|-----------------------|---|------------|
| Date of Hearing       | : | 22-07-2020 |
| Date of Pronouncement | : | 14-08-2020 |

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal has been filed by assessee against order dated 01/11/2017, passed by Ld.CIT (A)-7, for assessment year 2013-14 on following grounds of appeal:

- “1. That the order of the learned Commissioner of Income Tax (Appeals) is prejudicial to the interests of the appellant, is bad and erroneous in law and against the facts and circumstances of the case.*
- 2. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in confirming the interest disallowance of Rs.68,47,725/- on the ground that the loans borrowed are utilized for capital investment in the firms even though it is used for making advances to the firms.*
- 3. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in passing the order without adjudicating the alternate*

*ground nos. 4 to 6 raised before the learned Commissioner of Income Tax (Appeals).*

*4. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in not adjudicating the claim of the appellant that the entire interest of Rs.4,38,92,062/towards loans utilized for advances made to the firms.*

*Each of the above grounds is without prejudice to one another, the appellant craves the leave of the Income Tax Appellate Tribunal, Bangalore to add, delete, modify and amend otherwise any of the ground either at the time of filing the appeal or at the time of hearing.”*

**Brief facts of the case are as under:**

2. Assessee is a company and filed its return of income for year under consideration on 29/11/2013 declaring loss of Rs.1,96,469/-.

3. The same was processed under section 143 (1) of the act and the case was subsequently selected for scrutiny. Consequentially you notice under section 143 (2) was issued to assessee in response to which representatives of assessee appeared before Ld. AO and filed requisite details.

4. Ld.AO observed that assessee is a owner of coffee estate and also partner in several partnership firms who are also into the business of coffee estate. Ld.AO in the scrutiny proceedings observed that assessee claimed deduction of interest paid to bank against the interest earned from partnership firms. Accordingly, assessee was called upon to file details of capital invested and advances made by assessee to partnership firms. Assessee in response to the notice filed following details:

| <i>Name of the Firm</i>          | <i>Capital invested (Rs.)</i> | <i>Amount advanced (Rs.)</i> |
|----------------------------------|-------------------------------|------------------------------|
| <i>Matasagara Coffee Estates</i> | <i>66,54,688</i>              | <i>1,33,82,671</i>           |
| <i>IBC One Estates</i>           | <i>19,59,094</i>              | <i>4,58,76,137</i>           |
| <i>IBC Two Estates</i>           | <i>15,48,919</i>              | <i>79,33,042</i>             |
| <i>IBC Hireahasade Estates</i>   | <i>90,16,592</i>              | <i>9,74,27,108</i>           |
| <i>IBC Udevara Estae Co</i>      | <i>2,93,63,587</i>            | <i>6,99,57,363</i>           |
| <i>IBC Sangam Estates</i>        | <i>93,86,094</i>              | <i>46,255</i>                |
| <i>IBC Adagan Estates</i>        | <i>4,73,36,931</i>            | <i>1,83,61,348</i>           |
| <i>Total</i>                     | <i>10,52,65,905</i>           | <i>25,29,83,924</i>          |

5. Assessee submitted that interest is earned from the amounts shown as advance to the firms and not from capital invested. It was also submitted that source of advance was the loan taken from J &K Bank Ltd., and hence the interest paid to bank has been adjusted against the interest earned from the firms on advances. The Ld.AO however rejected the submissions of assessee by observing that the firms have shown the amount received from the partners under the head partner's capital account and partners current account. Ld.AO concluded that interest is payable to the partners both on capital and current account of each partner and thus it was held that the amount invested as only for earning interest of the partnership firms and accordingly disallowed the proportionate interest attributable to the amount invested in.

6. Aggrieved by addition, assessee preferred appeal before Ld.CIT(A).

7. Ld.CIT(A) after considering submissions of assessee and the assessment order held as under:

“4.2.....

*The AR during the hearing of the case vehemently contended that the conclusion drawn by the AO is not correct and the submissions of the appellant should be accepted. The AR was asked to file supporting details and evidences in support of his argument: relating the investment in firms and the date of loan received from the bank (order sheet entry 15/09/2017). However, on the date of hearing on 09/10/2017, nobody appeared nor any written communication filed. In view of above, the contention of appellant being unsubstantiated cannot be accepted. The AO has given details and cogent reason for his decision and the decision of the AO to disallow of the proportionate interest is upheld.”*

Ld.CIT(A) thus upheld addition made by Ld.AO.

8. Aggrieved by order of Ld.CIT(A), assessee is in appeal before us now.

9. Assessee has raised 2 issues before this tribunal:

1. Disallowance of Rs.68,47,725/- on the ground that, loans borrowed are utilised for capital investment in firms.
2. Ld.CIT(A) did not adjudicated the claim of assessee that entire interest of Rs.4,38,92,062/- towards loan utilised for advances to the firms.

Issue 1:

10. Ld.AR submitted that advances given by assessee to the firms are from loans borrowed from Jammu and Kashmir bank which is not disputed by revenue. It is also an admitted position that the advances paid to the firms out of

loan have been classified as current assets in balance sheet of assessee. Ld.AR submitted that assessing officer erred in holding that advances made by assessee was towards capital in those firms as against advances. He submitted that this observation has been made by Ld.AO only on the basis of the balance sheet of the firms that do not show any liability from assessee except for the capital account in the name of assessee.

11. Ld.AR submitted that, assessing officer while concluding has held that amounts borrowed have been utilised for capital investment in the firms and also advances given to the form and therefore he disallowed proportionately amounting to Rs.68,47,725/-. Ld.AR submitted that, such contrary view taken by Ld.AO is not in accordance to the fact in the present case.

Issue no.2:

12. Ld.AR submitted that, interest on loans utilised for advances was Rs.4,38,92,062/- and that this issue has not been verified by Ld.CIT(A).

On the contrary, Ld.Sr.DR placed reliance on orders passed by authorities below.

13. We have perused submissions advanced by both sides in light of records placed before us.

14. At the outset, on perusal of assessment order, we note that, Ld.AO made certain factual mistakes in noting that assessee earned profits towards its share from partnership firm amounting to Rs.2,13,87,620/-as against losses amounting to Rs.1,00,72,737/-. It is also wrongly noted by

Ld.AO that, interest earned by assessee from the firm amounted to Rs.100,72,737/- as against Rs.2,13,87,620/-.

We also note that, Ld.CIT(A) confirmed the addition made by Ld.AO for a sum of Rs. 68, 47, 725/- only for the reason that, assessee did not file supporting details and evidences to co-relate investments in firms and date of loan received from bank. We also note that Ld.CIT(A) did not adjudicate Ground 5 raised before him.

15. Considering the totality of the situation, we are of view that the issue needs to be readjudicated by Ld.CIT(A) afresh. Assessee is directed to file all requisite details in support of its claim to co-relate investment in form and date of loans received from bank.

16. Accordingly, both these issues are remanded to Ld.CIT (A) for fresh adjudication.

17. Ld.CIT(A) is directed to pass a detailed and reasoned order on merits. Needless to say that assessee shall be granted proper opportunity of being heard.

**In the result appeal filed by assessee stands allowed for statistical purposes.**

Order pronounced in the open court on 14<sup>th</sup> August, 2020.

Sd/-  
**(B. R. BASKARAN)**  
**Accountant Member**

Sd/-  
**(BEENA PILLAI)**  
**Judicial Member**

Bangalore,  
Dated, the 14<sup>th</sup> August, 2020.

/Vms/

**Copy to:**

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

By order

Assistant Registrar, Income-Tax Appellate Tribunal.  
Bangalore.

|     |  | <b>Date</b> | <b>Initial</b> |          |
|-----|--|-------------|----------------|----------|
| 1.  | Draft dictated on                                | On Dragon   |                | Sr.PS    |
| 2.  | Draft placed before author                       | -08-2020    |                | Sr.PS    |
| 3.  | Draft proposed & placed before the second member | -08-2020    |                | JM/AM    |
| 4.  | Draft discussed/approved by Second Member.       | -08-2020    |                | JM/AM    |
| 5.  | Approved Draft comes to the Sr.PS/PS             | -08-2020    |                | Sr.PS/PS |
| 6.  | Kept for pronouncement on                        | -08-2020    |                | Sr.PS    |
| 7.  | Date of uploading the order on Website           | -08-2020    |                | Sr.PS    |
| 8.  | If not uploaded, furnish the reason              | --          |                | Sr.PS    |
| 9.  | File sent to the Bench Clerk                     | -08-2020    |                | Sr.PS    |
| 10. | Date on which file goes to the AR                |             |                |          |
| 11. | Date on which file goes to the Head Clerk.       |             |                |          |
| 12. | Date of dispatch of Order.                       |             |                |          |
| 13. | Draft dictation sheets are attached              | No          |                | Sr.PS    |