

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.224/Bang/2020
Assessment Year: 2016-17

GMR Corporate Affairs Pvt. Ltd. 25/1, Skip House, Museum Road Bangalore PAN NO : AACCG 7570N	Vs.	The Deputy Commissioner of Income Tax (OSD), Range-3(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Yogesh A. Thar, A.R.
Respondent by	:	Shri S. Sundar Rajan, D.R.

Date of Hearing	:	30.09.2020
Date of Pronouncement	:	30.09.2020

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 31-12-2019 passed by Ld CIT(A)-3, Bengaluru and it relates to the assessment year 2016-17.

2. The issue contested in this appeal relates to the disallowance of interest expenditure of Rs.47,54,951/- claimed by the assessee.

3. The facts relating to the above said issue are stated in brief. During the year under consideration, the assessee had availed loan of Rs.39.50 crores from its group concern named M/s GMR Infrastructure Ltd and paid interest of Rs.47,54,951/- on the above

said loan. The above said interest payment was claimed as deduction. The assessee company is engaged in the business of providing corporate services in the nature of shareholders, management and administrative support services to domestic as well as overseas entities. Hence the AO asked the assessee to furnish details of purpose of loan and how the interest expenditure is allowable u/s 36(1)(iii) of the Act.

4. It was explained that a group concern of the assessee named M/s Dhruvi Securities P Ltd had made investments in the units of two Venture Capital Funds named M/s Infrastructure Project Development Fund and M/s Infrastructure Resurrection Fund to the tune of Rs.55.41 crores. Out of the above, investments to the tune of Rs.39.35 crores were transferred to the assessee herein on cost to cost basis, i.e., the assessee has purchased the units of two Venture capital Funds referred above to the tune of Rs.39.35 crores by utilising the loan of RS.39.50 crores referred above.

5. The AO noticed that the assessee has purchased the units of Venture Capital Funds from M/s Dhruvi Securities P Ltd in order to help M/s Dhruvi securities P Ltd to comply with a statutory condition. Further the said investment is not related to the business activities carried on by the assessee. Further, the AO noticed that the assessee operates on “no cost- no profit” basis and it will not have income at all, meaning thereby, the interest expenditure will always result in loss only. Accordingly, the AO held that the interest expenditure claim does not satisfy the requirements of sec.36(1)(iii) of the Act and accordingly disallowed the same.

6. The Ld CIT(A) also confirmed the disallowance made by the AO.

7. The Ld A.R submitted that the investments made in Venture Capital Funds (VCF) are governed by the provisions of sec.115U of the Act. He submitted that, as per the above said provision, the VCF

is a pass through entities and hence the income earned by a VCF is actually assessable in the hands of the investor only, as if the unit holders have made direct investments. In this regard, the VCF will issue Form 64 to all the unit holders specifying the income attributable to them. The Ld A.R submitted that the assessee has now furnished Form 64 before the Tribunal as additional evidence along with an application seeking admission of the same. He submitted that the assessee as well as the tax authorities has failed to apply the provisions of sec.115U of the Act, which is the applicable provision in this issue. Accordingly, he prayed that the entire issues may be restored to the file of the AO for determining the income of the assessee by applying correct provision of law.

8. We heard Ld D.R and perused the record. Admittedly, the question of allowing interest expenditure has been examined by the tax authorities in the context of sec.36(1)(iii) of the Act. However, it is the submission of the assessee that, as per the provisions of sec.115U of the Act, the income earned by VCF is directly assessable in the hands of the assessee. In support of this submission, the assessee has furnished Form 64 in the form of additional evidence, wherein the VCF has listed out the details of income distributed by it u/s 115U of the Act.

9. Thus we notice that non-consideration of provisions of sec.115U of the Act goes to the root of the issue and the issue of deduction of interest expenditure is dependent upon sec.115U of the Act also. Thus, we notice that the total income of the assessee itself has not been correctly assessed. Accordingly, we admit additional evidences and restore all the issues to the file of the AO for examining all of them afresh. After affording adequate opportunity of being heard, the AO may decide all the issues in accordance with law.

10. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 30th Sept, 2020

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 30th Sept, 2020.
DS/BV/SPS

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore.