

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B" : HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

(THROUGH VIRTUAL CONFERENCE)

S. No.	ITA No.	AY	Appellant	Respondent
1	930/H/2018	2014-15	Amsri Constructions Pvt. Ltd., Sec'bad. PAN-AAFCA 5309Q	Dy. Commissioner of Income-tax, Central Circle – 1(2), Hyderabad.
2	931/H/2018	2014-15	Amsri Homes Pvt. Ltd., Sec'bad. PAN-AAGCA 1280M	-do-
3	933/H/2018	2014-15	Amsri Infra Projects Pvt. Ltd., Sec'bad. PAN-AAGCA 0788A	-do-
4	934/H/2018	2014-15	Amsri Properties and Townships Pvt. Ltd., Sec'bad PAN-AAGCA 1599R	-do-
5	935/H/2018	2014-15	Amsri Developers Pvt. Ltd., Sec'bad. PAN-AAGCA 0793F	-do-

For Assessee : Shri K.C. Devdas
For Revenue : Shri Sunil Kumar Pandey

Date of Hearing : 11-01-2021
Date of Pronouncement : 18-01-2021

ORDER

PER LAXMI PRASAD SAHU, A.M. :

All these appeals filed by the assessees, are sister concerns, directed against separate orders of CIT(A) – 11, Hyderabad, all dated, 31/01/2018. Since identical issues are involved in these appeals, they were clubbed and heard together

and, therefore, a common order is passed for the sake of convenience.

2. To dispose of these appeals, we refer to the appeal in ITA No. 930/Hyd/2018 in the case of Amsri Constructions Pvt. Ltd., wherein the assessee has raised the following grounds of appeal, which are common in all the appeals under consideration, except the quantum of addition:

1. The order of the Hon'ble CIT(A) is erroneous in law as well as facts of the case.

2. The Hon'ble CIT (A) ought to have deleted the disallowance made by the assessing officer in respect of interest claim of Rs.11,09,426/- without restricting the same to 50%.

3. The Hon'ble CIT (A) ought to have observed that the assessing officer erred in reducing the capital work in progress by Rs.11, 09,426/- and therefore ought to have deleted the entire disallowance instead of restricting the same to 50%.

4. Any other ground will be raised at the time of hearing."

3. Brief facts of the case are that the assessee-company is engaged in the business of development, constructions and real estate activities. A search and seizure operation was conducted in the case of M/s Amsri Builders and its partners on 27/12/2013 wherein certain incriminating material pertaining to the assessee in annexures A/ASB/US/04, A/US/SEC/01 etc. were found and seized. During the year under consideration, the assessee-company filed its return of income on 27/11/2014 declaring income at Rs. Nil. The AO completed the assessment u/s 143(3) of the

Act by disallowing interest claim of Rs. 11,09,426/- by observing that the assessee had given interest free loans/advances of Rs. 1.394 Cr to related concerns Rs. 7.20 cr) and others, for which it has not furnished any evidence to prove that these advances are trade advances purely for business purpose.

4. When the assessee preferred an appeal before the CIT(A), the CIT(A) restricted the disallowance to 50% following the decision of CIT(A)-12, Hyderabad in the case of a group co. M/s Amsri Builders Pvt. Ltd. for AY 2007-08 in ITA No. 0091/2015-16, dated 21/07/2016.

5. Aggrieved by the order of the CIT(A), the assessee is in appeal before us.

6. Before us, the Id. counsel for the assessee submitted that the issue in dispute is squarely covered by the decision of the coordinate bench of this Tribunal in its group concern cases, namely, M/s Amsri Developers Pvt. Ltd. and M/s Amsri Infra Projects Pvt. Ltd. in ITA Nos. 1556 & 1557/Hyd/2018 vide order dated 18th February, 2020, a copy of which is placed on record.

7. On the other hand, the Id. DR neither controverted the submission of the Id. AR of the assessee nor brought any contrary decision in this regard.

8. We have considered the rival submissions and perused the material on record as well as gone through the orders of the revenue authorities. As submitted by the Id. counsel for the assessee, the issue in dispute is squarely covered by the decision of the coordinate bench of this Tribunal in assessee's sister concern cases (supra) wherein the coordinate bench has upheld the order of CIT(A) and dismissed the appeals of the assessees. For the sake of clarity, complete order is extracted below:

"Both the captioned appeals are filed by the assessees against the orders of the Ld. CIT(A)-11, Hyderabad in appeal Nos. 47 & 377/2017- 18/CC-1(2)/CIT(A)-11/17-18, dated 25/5/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2015-16. Since both the assessees are sister concerns and have raised identical grounds, the appeals are heard together and disposed off by this common order.

2. The identical grounds raised by the assessees are extracted hereinbelow for reference: -

"1. The order of the Hon'ble CIT(A) is erroneous in law as well as facts of the case.

2. The Hon'ble CIT(A) ought to have deleted the disallowance made by the A.O. in respect of interest claim of Rs. 18,22,065/- in the case of Amsri Developers Pvt Ltd and Rs. 12,18,416/- in the case of Amsri Infra Projects Limited without restricting the same to 50%.

3. The Hon'bel CIT(A) ought to have observed that the A.O. erred in reducing the capital work in progress by Rs. 18,22,065/- in the case of Amsri Developers Pvt Ltd and Rs. 12,18,416/- in the case of Amsri Infra Projects Limited and therefore ought to have deleted the entire disallowance instead of restricting the same to 50%.

4. Any other ground will be raised at the time of hearing."

3. Brief facts of the case are that both the assesseees are private limited companies engaged in the business of construction filed their return of income declaring NIL income. Subsequently, both the returns were taken up for scrutiny and assessment was completed by disallowing the claim of proportionate interest expenditure with respect to the interest free loan advanced by the assesseees to their related concerns. During the course of scrutiny assessment proceedings, it was observed by the Ld. AO that both the assesseees had advanced interest free loans to their sister concerns when they were incurring interest expenditure. On query, both the assesseees did not furnish any documentary evidence to establish that the advances made to their sister concerns is in relation to the business of the assessee. It was further observed that both the assesseees had debited the interest income incurred by it to the work-in-progress and thereby capitalise the same without claiming it as deduction. Therefore, the Ld. AO reduced the proportionate interest expenditure incurred with respect to the interest free loan advanced to the sister concern from the work-in-progress. Aggrieved by the order of the Ld. AO, both the assesseees carried the matter before the Ld. CIT (A).

4. The Ld. CIT (A) following his earlier order in the case of the assessee on the identical issue for the AY 2007-08 restricted the disallowance to 50% of the disallowance made by the Ld. AO. Now the assessee is in appeal before us by stating that the Ld. CIT (A) ought to have allowed the entire amount of proportionate interest to be added to the work-in-progress of the assessee thereby deleting the disallowance made by the Ld. AO rather than sustaining 50% of the same. The contention of the assessee before us was that once the Ld. CIT (A) is satisfied that the loan advanced to the sister concerns is towards the business of the assessee then no disallowance can be made. It was therefore argued that the Ld. CIT(A) has erred by granting 50% relief to the assessee rather than deleting the entire disallowance made by the Ld. AO. The Ld. DR on the other hand relied on the orders of the Ld. CIT (A).

5. We have heard the rival submissions and carefully perused the materials on record. From the order of the Ld. CIT (A) it is apparent that in order to expeditiously resolve the issue and avoid further investigation leading to unnecessary cost and inconvenience to both the parties, the Ld. CIT (A) has restricted the disallowance at 50% of that what was made by the Ld. AO following the order of the Ld. CIT (A) for the AY 2007-08. It is also apparent that the assessee had not furnished any cogent evidence before the Ld. AO, Ld. CIT (A) and even before us at this stage to justify its claim that the loans advanced to the sister concern were for the purpose of the business of the assessee. In this situation, we do not find it necessary to interfere with the orders of the Ld. CIT (A) on this issue in the case of both the assesseees. Though it would have been appropriate for us to remit back the matter to the file of

the Ld. AO for fresh consideration, we have restrained from doing so because it would result in protracted litigation leading to waste of resources and may also adversely affect the assessee since it appears that the assessee has no cogent evidence to support its stand, further the Revenue has also not preferred appeal.

6. In the result, both the appeals of the assesseees are dismissed.”

As the facts and grounds of appeal raised in all the appeals under consideration are materially identical to the above decision of the coordinate bench in assesseees' sister concern cases, respectfully following the decision of the coordinate bench, we dismiss the grounds raised by the assesseees in their respective appeals.

9. In the result, all the appeals under consideration are dismissed.

Pronounced in the open court on 18th January, 2021

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 18th January, 2021

kv

copy to :

1	Amsri Constructions Pvt. Ltd., Sec'bad.	C/o B. Narsing Rao & Co., CAs., Plot No. 554, Road No. 92, Jubilee Hills, Hyd. - 96
2	Amsri Homes Pvt. Ltd., Sec'bad.	
3	Amsri Infra Projects Pvt. Ltd., Sec'bad	
4	Amsri Properties and Townships Pvt. Ltd., Sec'ba	
5	Amsri Developers Pvt. Ltd., Sec'bad.	
6	<i>DCIT, Central Circle – 1(2), Hyderabad.</i>	
7	<i>CIT(A) – 11 Hyderabad.</i>	
8	<i>Pr. CIT (Central), Hyderabad</i>	
9	<i>ITAT, DR, Bhubaneswar</i>	
10	<i>Guard File</i>	