

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
BENCH 'B', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.1506/Del/2016  
Assessment Year : 2011-12

Kumar Printers Pvt. Ltd., D-92/4, Okhla Indl. Area, Phase-1, New Delhi-110020  PAN : AAACK 1232 D <b>(APPELLANT)</b>	Vs.	ACIT Range – 14, New Delhi  <b>(RESPONDENT)</b>
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Assessee by	Shri R. K. Gupta, C.A
Revenue by	Shri Sampornanand Seth, Sr. D.R.

Date of hearing:	23/02/2021
Date of Pronouncement:	02/03/2021

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the assessee is directed against the order dated 25.01.2016 of the Commissioner of Income Tax (Appeals)-5, Delhi relating to Assessment Year 2011-12.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a company stated to be engaged in the business of Printing & Manufacturing of Packaging Material. Assessee filed its return of income for A.Y. 2011-12 on 30.09.2011 declaring total income at Rs.7,58,59,790/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 26.03.2014 and the total income was determined at Rs.8,63,87,970/-. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 25.01.2016 in Appeal No. Del/CIT(A)-5/0135/2014-15 granted partial relief to the assessee. Aggrieved by the order of CIT(A), assessee is now before us and has raised the following grounds of appeals:

*“A. That on facts and circumstances of the case the Learned AO and learned CIT(Appeals) erred in :-*

*(i). Disallowing the interest by directing AO to re-compute the disallowance of interest @ 12% paid on term loan by working out the day wise interest on the advances of Rs.2,13,49,500/- made to M/s Vijuk Equipments Inc. (As recomputed by the Appellant company the amount of interest works out Rs.6,57,590/-) during the financial year 2010-11.*

*B. The assessee craves, leave to add, alter or amend the grounds of appeal at and before the hearing.”*

4. During the course of assessment proceedings, AO noticed that assessee had given advance to M/s Vijuk Equipment Inc. and the balance as on 31.03.2011 was Rs.1,80,40,500/- which comprised of the aggregate amount of Rs 2,13,49,500/- given during the year and after adjustment of Rs 67,47,000/- towards the cost of machinery supplied during the year (the details of the

date and the amounts advanced are noted by the AO in para 9 of his order). AO also noticed that during the year assessee had raised term loan of Rs 640 lakhs for acquisition of machinery, got loan sanctioned of Rs.180 lakhs for the machines already purchased and Rs.393 lakhs for building. He therefore concluded that assessee was using interest bearing funds for acquisition of plant and machinery and therefore the interest on the amount advanced to M/s. Vijuk Equipment Inc. out of the borrowed funds made for acquiring new plants and machinery cannot be allowed. He accordingly computed disallowance of interest @ 12% on the amount advanced to Vijuk Equipments Inc during the year and worked out the disallowance interest amounting to Rs.10,21,266/-.

5. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who granted partial relief to the assessee by directing the AO to exclude the interest on Rs.42.05 lakhs being the building loan received by the assessee on the last day of the accounting year. He accordingly directed the AO to rework the disallowance on the amount tabulated under para 8.2.3 of her order. Aggrieved by the order of CIT(A), assessee is now before us.

6. Before us, Learned AR reiterated the submissions made before the AO and CIT(A) and further submitted that term loan of Rs.329 lakhs was towards the finance of machinery purchased from TMP Meurer Graphics GmbH which was installed on

29.10.2010 and the term loan was disbursed on 07.01.2011 i.e. much after the amount advanced to Vijuk Equipments Inc and therefore the term loan of Rs 329 lakhs could not have been utilized towards the advancing of the amount and therefore no disallowance on such interest was warranted. He pointed to the details of amounts and date on which the amounts was advanced to Vijuk Equipments Inc to support his contention that no amount was advanced to it after the receipt of term loan of Rs 329 lakhs. He further submitted that the source of amount advanced was out of business profits, share capital and free reserves and therefore no disallowance of interest was called for. He submitted that assessee has interest free capital and reserves and surplus to the extent of Rs 16.69 crores as on 31.3.2011 from which the amount was advanced. He thereafter fairly admitted that the term loan of Rs 90.30 lacs that was received by it on 9.3.2011 can be stated to have been used for advancing the amount of Rs 90.30 lakhs and therefore he has no objection for disallowance on the aforesaid amount.

7. Learned DR on the other hand supported the order of AO and CIT(A).

8. We have heard the rival submissions and perused materials on record. The issue in the present ground is with respect to disallowance of interest. The AO had proceeded to work out the disallowance by concluding that the terms loans received by the

assessee was used to advance the amounts and thereby assessee has utilized interest bearing fund for the purpose of advance. Before us, it is the contention of the assessee that the term loan of Rs.329 lakhs was disbursed to the assessee on 07.01.2011 which is after the date of advance payment aggregating to Rs.1,23,19,500/- made to Vijuk Equipments Inc. The summarized amount advanced to Vijuk Equipments Inc. as recorded in the assessment order and also reproduced in the order of CIT(A) at Page 29 would reveal that assessee has made aggregating payment of Rs.1,23,19,500/- on various dates prior to 7.1.2011, being the date of disbursement of term loan of Rs.329 lakhs. We thus find force in the contention of the Ld AR that the term loan of Rs 329 lakhs could not have been utilized for making the advance to Vijuk Equipment Inc. In such a situation, we are of the view that no disallowance of interest could be made for the amounts advanced out of term loan of Rs 329 lakhs. We therefore direct the AO to delete the addition on interest to that extent.

9. As far as payment of Rs.90.30 lakhs made to Vijuk Equipments Inc. on 09.03.2011 is concerned, before us Ld AR has fairly admitted that the term loan of Rs 90.30 lakhs could have been said to be utilized for advancing the amount of Rs 90.30 lacs to Vijuk Equipments Inc. In such a situation, we are of the view that to the extent of disallowance of interest on Rs 90.30 lacs advanced calls for no interference. We therefore direct the

disallowance of interest be restricted out of amount of Rs.90.30 lakhs paid on 09.03.2011 from the term loan received by the assessee. **Thus this ground of assessee is partly allowed.**

**10. In the result, appeal of the assessee is partly allowed.**

**Order pronounced in the open court on 02.03.2021**

**Sd/-**

**(KULDIP SINGH)  
JUDICIAL MEMBER**

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

*Date:- 02.03.2021*

\*Priti Yadav, Sr.PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI