

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'A' NEW DELHI**

**BEFORE SHRI R. K. PANDA ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 5935/DEL/2016 (A.Y 2012-13)  
(THROUGH VIDEO CONFERENCING)**

Anand Duplex Ltd., A-58, Saket New Delhi AABCA4927A <b>(APPELLANT)</b>	Vs	ACIT Circle-1 Meerut  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. K. Sampath, Adv</b>
<b>Respondent by</b>	<b>Sh. Ashok Gautam, Sr. DR</b>

<b>Date of Hearing</b>	<b>08.03.2021</b>
<b>Date of Pronouncement</b>	<b>01.04.2021</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against order dated 31/08/2016 passed by CIT (A)-Meerut for assessment year 2012-13.

2. The grounds of appeal are as under:-

*“1. (a) That on the facts and in the circumstances of the case, the Ld.CIT(A) has erred in sustaining the disallowance of interest of Rs. 99,14,425/- under proviso to Section 36(1)(iii) of the Income Tax Act, 1961. Observations made, inferences drawn and findings recorded in this regard are not only arbitrary and illegal but smack of prejudice as well.”*

3. The assessee is engaged in manufacturing and sale of Duplex Board. The return of income for Assessment Year 2012-13 was filed on 24/09/2012 declaring Rs. 1,55,78,040/-. The assessee debited interest expenses on term loan amounting to Rs. 99,14,425/- in profit and loss account and claimed

deduction on the amount u/s 36(1)(iii) of the Income Tax Act, 1961. The Assessing Officer observed that the assessee made total addition to plant and machinery amounting to Rs. 3,48,04,787/- in its fixed assets during the year. The process of installation of plant and machinery was completed by February, 2012. The Assessing Officer held that the interest expenses amounting to Rs. 99,14,425/- was wrongly debited by the assessee in its profit and loss account as the same are not allowable as per proviso to Section 36(1)(iii) of the Act and disallowed the same.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted that the assessee has given details of interest expenses as debited in the profit and loss account in respect of interest on loan from PNB amounting to Rs. 96,84,640/- and interest on car loan amounting to Rs. 2,29,785/- totalling to Rs.99,14,425/-. The bank has sanctioned loan of Rs. 7.40 crores on 28/2/2011 and the bank has already disbursed amount of Rs. 4,50,33,018/- which was shown as an opening balance and was utilised in making addition to Plant and Machinery at Rs.4,07,27,441/- in the previous year ending on 31/3/2011 itself. With the major increase in plant and machinery, the production level has gone up from 26,84.630 MT in Financial Year 2010-11 to 32.244.265 MT in the Financial Year 2011-12. During the year under consideration, i.e. 31/3/2012, the bank further disbursed a loan of Rs. 2,82,16,709/- to the assessee on different dates and against this loan assessee purchased machinery for Rs. 3,48,04,787/-. The same was purchased from the loan availed and the internal accrual of the company. A certificate from the bank regarding completion of project was given by the assessee along with details of machinery purchased, thereby depicting the fact that 76% of the project was completed by September, 2011. The machinery was purchased and put to use during the previous year ending 31/3/2011 and

31/3/2012. The Ld. AR submitted that the CIT(A) has overlooked the evidences produced before the Assessing Officer as well as before the CIT(A).

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. The CIT(A) has observed that no documentary evidence in support of the value of the machinery was produced before the Assessing Officer as well as before the Appellate Authority i.e. CIT(A). The CIT(A) further observed that no proof of creation of charge of machinery in favour of bank was filed. The Ld. AR submitted that all the relevant documents were submitted before the Assessing Officer as well as before the CIT(A), but the same was not verified by the Assessing Officer as well as by the CIT(A). Therefore, it will be appropriate to remand back the issue to the file of the Assessing Officer for proper adjudication in respect of the evidences produced by the assessee and thereafter pass an appropriate order in accordance with law. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

**Order pronounced in the Open Court on this 01<sup>st</sup> Day of April, 2021**

**Sd/-**

**(R. K. PANDA)**  
**ACCOUNTANT MEMBER**

**Sd/-**

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Dated : 01/04/2021

*R. Naheed \**

Copy forwarded to:

1. Appellant

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

ASSISTANT REGISTRAR

ITAT NEW DELHI