

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

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1605/Bang/2018
Assessment Year: 2013-14

XIndia Steels Ltd. Kunikere&Hirebaginal Village Ginigera Koppal Taluka & District Koppal Karnataka 583 231  <b>PAN NO :AAACX0521A</b>	<b>Vs.</b>	ACIT Circle-7(1)(2) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Smt. Sheethal Borkar, A.R.
<b>Respondent by</b>	:	Ms. Neera Malhotra, D.R.

Date of Hearing	:	21.06.2021
Date of Pronouncement	:	23.06.2021

**ORDER**

**PERB.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 16.3.2018 passed by Ld. CIT(A) 7 Bengaluru and it relates to the assessment year 2013-14. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the following disallowances made by the A.O.

- a) Disallowance made out of interest expenses
- b) Adhoc disallowance made out of other expenses.

2. The facts relating to the case are stated in brief. The assessee is engaged in the business of manufacturing of alloy steel cast

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grinding media balls. The assessee filed its return of income for the year under consideration declaring a total income of Rs.5.09 crores. The AO completed the assessee by making above said disallowances and the same was also upheld by Ld CIT(A).

3. The first issue relates to disallowance made out of interest expenses. The A.O. noticed that the assessee has advanced a sum of Rs.87.30 crores to Shri V.P. Yakob and Others for the purpose of purchase of agricultural land. The assessee did not collect any interest from the said advances. The A.O. noticed that the assessee was claiming interest expenditure of Rs.2.48 crores. Hence, the A.O. asked the assessee to explain the reason for giving interest free advances to Shri V.P. Yakob and Others, as it is not related to the business carried on by the assessee. Before A.O., the assessee submitted that the company has been almost closed in 2015 and running on skeletal manpower. Hence, it expressed its inability to furnish the details called for. Hence, the A.O. took the view that the assessee has diverted interest bearing funds for giving interest free advances. Accordingly, he proposed to disallow the interest expenditure. The A.O. has also noted in the assessment order that the then authorized representative of the assessee also accepted this addition. Hence he proposed to disallow interest on the interest free advances computed @ 14.5%, being the rate charged by SBI. However, since the interest actually claimed by the assessee was a lesser figure of Rs.2.48 crores, the AO disallowed entire interest claim of Rs.2.48 crores. The ld. CIT(A) also confirmed the same.

4. The Ld. A.R. submitted that the assessee has got huge interest free own funds and the above said advances have been given out of interest free own funds. Inviting our attention to page

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no.15 of the paper book, wherein copy of balance sheet is placed, the Ld. A.R. submitted that the assessee is having own funds of Rs.416.53 crores while the interest free advance given to V.P. Yakob and Others was only Rs.87.30 crores. Accordingly, the Ld. A.R. submitted that the interest disallowance is not called for in the facts of the present case.

5. On the contrary, the Ld. D.R. submitted that the assessee has not proved the nexus between the interest free advances and the business carried on by the assessee. Further, the assessee has accepted the addition before the A.O. and hence, the assessee is precluded from contesting this addition.

6. In the rejoinder, the Ld. A.R. submitted that it is the case of the assessee that it has not accepted for the addition before the A.O. and further, the assessee is willing to furnish an affidavit in this regard.

7. We heard the rival contentions and perused the record. Admittedly, the own funds available with the assessee as at the beginning and end of the year worth Rs.367.92 crores and Rs.416.53 crores respectively. The interest free advances given by the assessee is Rs.87.30 crores as on 31.3.2013. It has been held by Hon'ble Bombay High Court in Reliance Utilities & Power Ltd. 313 ITR 340 (Bom) that where the interest free funds far exceed the value of investments, it should be considered that investments have been made out of interest free funds. Accordingly, the interest disallowance is not called for in the present case.

8. Even though the A.O. has observed that the Ld. A.R. has accepted for the addition of interest expenditure, the said

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observation is being disputed now before us. In any case, the decision rendered by Hon'ble Bombay High Court supports the case of the assessee. Since there is no estoppel against law, we are of the view that the interest disallowance is not justified in the facts of the present case. Accordingly, we set aside the order passed by Ld CIT(A) on his issue and direct the A.O. to delete the interest disallowance.

9. The next issue relates to the adhoc disallowance out of various other expenses. As stated earlier, the assessee had expressed his inability to produce the details, vouchers, etc. in support of various expenses claimed by the assessee. The AO noticed that the assessee has claimed Rs.96.95 crores under various heads as deduction. The A.O. accordingly made adhoc disallowance of 25% of the aggregate amount of expenses and the disallowance worked out to Rs.24.23 crores. The Ld. CIT(A) also confirmed the same.

10. The Ld. A.R. submitted that the assessee could not furnish the details, vouchers, etc., before the A.O., since the operations of the company were almost closed. The Ld. A.R. further submitted that the assessee has furnished details of expenses along with sample vouchers as additional evidences and accordingly she prayed that the additional evidences may be admitted and the issue may be restored to the file of the A.O. for examining it afresh.

11. The ld. D.R., on the contrary, strongly objected to the admission of additional evidences. She submitted that the assessee has furnished only ledger account copies of various expenses and other vouchers prepared by the assessee only in respect of some of the expenses. The Ld. D.R. submitted that the

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assessee has not furnished third party evidences in support of the expenses. Accordingly, she submitted that the adhoc disallowance of 25% made by the A.O. is justified.

12. In the rejoinder, the Ld. A.R. submitted that the assessee may be given one more chance to prove the expenses. In the alternative, the Ld. A.R. submitted that the adhoc disallowance made by the A.O may be reduced to 10%.

13. We heard the rival contentions on this issue and perused the record. Admittedly, the assessee did not furnish evidences in support of the claim of various expenses before the A.O. As pointed out by Ld. D.R., we also notice that the additional evidences furnished by the assessee are mainly in the form of ledger account copies, self-made vouchers, etc. Hence, we are of the view that no useful purpose would be served in admitting these additional evidences and in remitting the matter to the file of the A.O. Accordingly, we decline to admit the additional evidences. However, we are of the view that the disallowance @ 25% made by the A.O. is on the higher side, since the assessee is a limited company and its accounts are being audited. At the same time, the non-production of details and vouchers was also not appropriate. It is settled proposition that the onus to prove the claim would lie upon the shoulders of the assessee. Accordingly, we are of the view that the disallowance of expenses may be reduced to 12.5% and the same would meet the ends of justice. Accordingly, we modify the order passed by Ld. CIT(A) on this issue and direct the A.O. to restrict the disallowance to 12.5% of the other expenses claimed by the assessee. We order accordingly.

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14. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 23<sup>rd</sup> June, 2021.

**Sd/-**  
**(N.V. Vasudevan)**  
**Vice President**

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

Bangalore,  
Dated 23<sup>rd</sup> June, 2021.  
VG/SPS

**Copy to:**

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

By order

Asst. Registrar, ITAT, Bangalore.