

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "C", BANGALORE**

Before Shri B.R.Baskaran, AM & Smt.Beena Pillai, JM

ITA No.667/Bang/2013 : Asst.Year 2008-2009

M/s.Gokaldas Images Pvt. Ltd. No.7 & 12, Industrial Suburb Tumkur Road, Yeshwanthpur Bangalore - 560 022. PAN : AAACG6637Q.	v.	The Additional Commissioner of Income-tax, Range - 11 Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri.Ashok A.Kulkarni, Advocate
Respondent by : Sri.Sri.Vilas V.Shinde, CIT-DR

Date of Hearing : 16.12.2021	Date of Pronouncement : 16.12.2021
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ORDER

Per B.R.Baskaran, AM:

The assessee has filed this appeal challenging the order dated 25.02.2013 passed by the learned CIT(A)-1, Bangalore, and it relates to assessment year 2008-2009.

2. This appeal was originally disposed of by the Tribunal on 26.09.2014. The assessee was contesting the disallowance of interest expenditure attributable to the interest free advances of Rs.7.00 crores given by the assessee to M/s Hinduja Investments Private Ltd. Since the Tribunal granted relief to the assessee, the revenue filed appeal before the Hon'ble High Court of Karnataka and the High Court vide its order dated 2nd November, 2020, passed in ITA No.78/2015, restored the

issue relating to interest disallowance attributable to the interest free advance of Rs.7,00,00,000/- given to M/s. Hinduja Investments Private Limited. This issue is raised in Ground no.2 by the assessee.

3. As noticed above, the Assessing Officer had disallowed interest expenditure attributable to interest free advance given to M/s Hinduja Investments P Ltd. The Tribunal, in the first round, held that these advances have been given on commercial expediency and accordingly deleted the interest disallowance. The Hon'ble High Court quashed the finding of the Tribunal that the amount of Rs.7 crores advanced by the assessee to M/s.Hinduja Investments Private Limited was for business purposes and on commercial expediency. The High Court restored the issue to the file of the Tribunal with the direction to decide the same afresh in accordance with law.

4. We heard the parties on this issue. The learned AR submitted that M/s.Hinduja Investments Private Limited is a subsidiary of the assessee-company and it was granted approval for development, operation and maintenance of Special Economic Zone. For this purpose, the above said subsidiary company required funds. The learned AR further submitted that the assessee is engaged in garments business and it was having a proposal to expand its business. In this connection, it has advanced Rs.7 crores to its subsidiary company with the idea that it could purchase an industrial

plot in the SEZ developed by the subsidiary company. Accordingly, the learned AR submitted that there is commercial expediency involved in giving interest free advances of Rs.7 crores to its subsidiary and further the same was given on business purpose only. By placing reliance on the decision rendered by the Hon'ble Supreme Court in the case of S.A.Builders Ltd. v. CIT(A) & Anr. (2007) 288 ITR 1, the learned AR submitted that the Assessing Officer was not justified in disallowing the corresponding interest expenditure attributable to the above said amount of Rs.7 crore.

5. The learned Departmental Representative submitted that the explanation furnished by the assessee only establishes the remote connection and the same could not be considered as commercial expediency. He submitted that the explanation given by the assessee now requires examination at the end of the A.O.

6. The learned AR submitted that this issue may be restored to the file of the A.O. for examining the explanation of the assessee with regard to the existence of commercial expediency.

7. Having heard the rival submissions, we notice that both the parties have expressed the view that the issues as to whether there was commercial expediency and whether there was business purpose in giving interest free advance to its subsidiary company needs to be examined at the end of the

Assessing Officer. Accordingly, we set aside the order passed by the learned CIT(A) on this issue and restore the same to the file of the A.O. for examining the claim of the assessee. After hearing the assessee, the A.O. may take appropriate decision in accordance with law.

8. In the result, the ground No.2 of the assessee is treated as allowed for statistical purposes.

Order pronounced on this 16th day of December, 2021.

Sd/-
(Beena Pillai)
JUDICIAL MEMBER

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Bangalore; Dated : 16th December, 2021.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-I, Bangalore.
4. The CIT-I, Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore