

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ITA No.621/Chny/2020
(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s. Anabond Limited, No. 36 Type II, DR. V.S.I Estate, Thiruvanmiyur, Chennai – 600 041.	बनाम/ Vs.	DCIT, Corporate Circle -1(1), Chennai.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AACCA-4158-Q		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri B. Ramakrishna (CA) – Ld. AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri ARV Sreenivasan (Addl. CIT) –Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	11-01-2022
घोषणा की तारीख / Date of Pronouncement	:	11-01-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. The only grievance of the assessee in captioned appeal for Assessment Year (AY) 2012-13 is interest disallowance u/s 36(1)(iii) for Rs. 95.45 Lacs. The impugned order has been passed by learned Commissioner of Income Tax (Appeals)-1, Chennai [CIT(A)] on 28.02.2020 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 31.03.2015.

2. The registry has noted a delay of 40 days in the appeal, the condonation of which has been sought by Ld. AR on the ground that the appeal could not be filed in time due to lockdown situation arising out of Covid-19 pandemic. Concurring with the same, we condone the delay and proceed with adjudication of the appeal on merits.

3. The Ld. AR assailed the disallowance, inter-alia, by submitting that the borrowed funds as obtained by the assessee were for specific purpose only. Further, own funds were sufficient to advance to group concerns. The Ld. DR controverted the same by submitting that the assessee was to show availability of interest free funds on the dates on which loans were advanced to group concerns.

4. Having heard rival submissions and after going through the orders of lower authorities, our adjudication would be as under.

5. During assessment proceedings, it transpired that the assessee had advanced interest free funds of Rs.798.45 Lacs to group entities whereas the assessee had net borrowings of Rs.1149.40 Lacs. Two of the entities were wholly owned subsidiaries of the assessee whereas third entity was joint venture entity. Since the assessee debited interest expenditure of Rs.137.40 Lacs in the Profit & Loss Account, Ld. AO computed proportionate interest disallowance u/s 36(1)(iii) for Rs.95.45 Lacs.

6. During appellate proceedings, the assessee submitted that term loans were with respect to specific assets and the borrowings were trade borrowings and accordingly, no borrowed funds were utilized to make investment in group entities. However, not convinced, Ld. CIT(A) confirmed the stand of Ld. AO. Aggrieved, the assessee is in further appeal before us.

7. Upon perusal of assessee's financial statement as placed on record (page 41 of paper-book), it could be seen that the assessee has own funds in the shape of share capital and free reserves to the extent of Rs.102.81 Crores which far exceed the investment of Rs.7.98 Crores made by the assessee in the group entities. Further, interest bearing borrowings are in the nature of term loan and cash credit which have been taken for specific business purposes and could not be diverted to any other purpose except for the business of the assessee. In such a case, unless nexus between the borrowed funds vis-à-vis investment made by the assessee was established by Ld. AO, a presumption was to be drawn in assessee's favor that the investments were sourced out of own funds. It is also discernible that the investments were made in group concerns which are joint venture entities as well as wholly owned subsidiaries of the assessee. Therefore, it could safely be concluded that the investments were out of commercial expediency and therefore, no interest disallowance could be made in such a case as per the decision of Hon'ble Supreme Court in the case of **Hero Cycles Pvt. Ltd. V/s CIT (63 Taxmann.com 308)**. The favorable decision of Hon'ble Delhi High Court in **Pr. CIT V/s Basti Sugar Mills Co. Ltd. (98 Taxmann.com 401)** would also be applicable to the fact of the case. This case has already considered the decision of Hon'ble Supreme Court in the case of **S.A. Builders Ltd. V/s CIT (288 ITR 1)** which held that once it was established that there was nexus between the expenditure and purposes of business, which need not be the business of the assessee, deduction u/s 36(1)(iii) was to be allowed. Deriving strength from these decisions, we delete the disallowance of Rs.95.45 Lacs as made by lower authorities u/s 36(1)(iii). No other grounds have been urged before us.

8. The appeal stands partly allowed.

Order pronounced on 11th January, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखासदस्य /ACCOUNTANT MEMBER

चेन्नई/ Chennai; दिनांक/ Dated : 11-01-2022
JPV

आदेशकीप्रतिलिपिअप्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR6. गार्डफाईल/GF