

IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BEFORE SHRI DUVVURU R L REDDY, HON'BLE JUDICIAL MEMBER  
&  
SHRI S. BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

I.T.A. No.103/VIZ/2021		
(Asst. Year :2017-18)		
Srinivasa Ferro Alloys Limited, S3 Royal Revira Apartments, Ismailnagar, Samalkota. PAN: AADCS 1439 B	Vs.	Asst. Commissioner of Income Tax, DC/AC-4(1), Visakhapatnam.
(Appellant)		(Respondent)
Assessee by:	Shri PS Raju	
Revenue by:	Shri SPG Mudaliar, Sr. AR	
Date of hearing:	07/03/2022	
Date of pronouncement:	07/04/2022	

O R D E R

PER S. BALAKRISHNAN, ACCOUNTANT MEMBER

This appeal filed by the assessee against the order of the Ld. CIT (A), National Faceless Appeal Centre (NFAC) vide order DIN No. ITBA/NFAC/S/250/2020-21/1031134295(1), dated 02/03/2021 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2017-18.

2. The assessee has raised four ground in its appeal and they are extracted herein below for reference:

- “1. *The order of the Hon’ble Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi U/s. 250 dated 02/03/2021 is bad in law and against the facts and circumstances of the case.*
2. *The order of the Hon’ble Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi U/s. 250 has failed to appreciate the facts of the case before passing the order and did not consider that there is no basis for the addition of Rs. 2,22,54,745/- towards interest paid to M/s. Shri Girija Alloy & Power (I) Private Limited.*
3. *The appellant pleads for permission to add/amend/modify/withdraw any of the above grounds at the time of hearing.*
4. *For these and any other grounds that may be submitted at the time of hearing, the appellant pleads for relief.”*

3. Brief facts of the case are that the assessee is a limited company engaged in manufacturing of ferro alloys. The assessee has filed its return of income for the AY 2017-18 and later revised return was filed on 31/3/2019 declaring loss of Rs. 16,96,50,304/-. The case was selected for scrutiny under CASS and statutory notices U/s. 143(2) and 142(1) were served on the assessee through ITBA module. In response to the notices the assessee filed various submissions before the Ld. AO. The Ld. AO after considering the submissions disallowed the interest paid to Shri Girija Alloys & Power (I) Pvt Ltd., (SGAPPL) for Rs.2,22,54,745/-. In the absence of any formal agreement between the assessee company and SGAPPL the Ld. AO made disallowance of Rs. 2,22,54,745/- in his assessment order. The Ld. AO also disallowed an amount of

Rs.2,25,500/- U/s. 14A of the Act. Aggrieved by the assessment order, the assessee filed an appeal before the Ld. CIT (A), NFAC, Delhi.

4. Before the Ld. CIT (A), the assessee filed written submissions against the additions made by the Ld. AO. After considering the written submissions made by the assessee company and relying on various case laws as discussed in his order, the Ld. CIT(A) allowed the sum of Rs. 2,25,500/- which was disallowed by the Ld. AO U/s. 14A of the Act. However, the Ld. CIT(A) concurred with the Ld. AO on the issue with respect to disallowance of interest of Rs. 2,22,54,745/- and upheld the order of the Ld. AO. Aggrieved by the order of the Ld. CIT (A), NFAC, Delhi the assessee is in appeal before us.

5. Before us, at the outset, the Ld. AR submitted that the assessee-company has paid interest at a reasonable rate of 12% per annum on the balance outstanding at the end of the year. However, the Ld. AR accepted the fact that there is no agreement between the assessee company and SGAPPL and no TDS was deducted on the said interest payment. The Ld. AR also submitted that subsequently in response to the order U/s. 201(1) /201(1A), the assessee company has paid TDS on interest along with the interest demand raised by the ACIT (TDS), Circle-4, Durgapur.

4. The Ld. AR also argued that the amount of Rs.2,22,54,745/- was shown as other income while filing the return of income by SGAPPL. Further, the Ld. AR invited our attention to page 120 of the paper book showing computation of SGAPPL.

6. Per contra, the Ld. DR strongly argued that the interest payment was not made in the earlier years or in the subsequent years. The Ld. DR also invited our attention to page 53 of the paper book wherein an amount of Rs. 18,00,000/- was only paid towards outstanding balance during the current year to SGAPPL. The Ld. DR vehemently opposed to the argument of the Ld. AR that it is a business decision of the assessee. The Ld. AR countering the arguments of the Ld. DR submitted that Rs. 18,00,000/- was paid against the trade payables and not against the loan account. The Ld. AR further submitted that in the books of account of SGAPPL there is a reduction in the loss and carry forward loss is also getting reduced consequently.

7. We have heard both sides and perused the material available on record as well as the orders of the authorities below. Admitted facts are that the assessee company has not entered into a written agreement with SGAPPL regarding the provision of funds and payment of interest

including the rate of interest. We find from the financial statement submitted by the assessee company that there exists a long term borrowing of loan from financial institutions to the extent of Rs. 20.60 Crs. We find that the assessee company has utilized the borrowed funds for payment of interest to its sister concerns without entering into any proper or written or formal agreement with SGAPPL. The Ld. CIT(A) in para 8.2 of his order found that the assessee has not provided any documentary evidence to substantiate that these amounts are used exclusively for the purpose of business of the assessee company. In the absence of an agreement between parties, the purpose of payment of interest during the FY 2016-17, could not be established by the assessee. Further we find force in the argument of Ld.DR that the interest payment was not made in the earlier years or in the subsequent years. In view of the above discussions, we concur with the finding of the Ld. CIT(A), NFAC, Delhi and find no infirmity in the order of the Ld. CIT (A) and therefore no interference is required.

8. In the result, appeal of the assessee is dismissed.

Pronounced in the open Court on the 07<sup>th</sup> April, 2022.

Sd/-  
(DUVVURU R L REDDY)  
Judicial Member

Sd/-  
(S. BALAKRISHNAN)  
Accountant Member

Dated: 07<sup>th</sup> April, 2022.

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*Copy to:*

1. *The Assessee: Srinivasa Ferro Alloys Limited, S3 Royal Revira Apartments, Ismailnagar, Samalkota, East Godavari District, Andhra Pradesh – 533440.*
2. *The Revenue: The Asst. Commissioner of Income Tax, DC/AC-4(1), Pratyakshakar Bhavan, MVP Double Road, Visakhapatnam-530017.*
3. *The CIT(A), National Faceless Appeal Centre, Delhi.*
4. *The D.R., ITAT, Visakhapatnam.*
5. *Guard file.*

By order

Sr. Private Secretary,  
ITAT, Visakhapatnam.