

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH: KOLKATA
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 1376/Kol/2019
Assessment Year : 2014-15

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|---|-----|----------------------------|
| De Son Marketing Pvt. Ltd. (PAN: AABCD 9837 E) | Vs. | ACIT, Circle-39, Midnapore |
| Appellant | | Respondent |

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|-----------------------|------------------------------|
| Date of Hearing | 10.05.2022 |
| Date of Pronouncement | 13.05.2022 |
| For the Appellant | Shri Gautam Banerjee, FCA |
| For the Respondent | Shri Manas Mondal, Addl. CIT |

ORDER

Per Shri Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Commissioner of Income Tax(Appeals)-11, Kolkata [hereinafter referred to as ‘CIT(A)’] dated 14.02.2019 for the assessment year 2014-15.

2. The only issue raised by the assessee is against the part confirmation of the disallowance on account of interest by Id CIT(A) to Rs. 9,49,163/- being 8.5% of the advances to the sister concerns and investment in building as against Rs. 16,19,163/- being 14.5% made by the AO.

3. Facts in brief are that the AO during the course of assessment proceedings observed that the assessee has debited interest expenses of Rs. 87,78,766/- on cash credits and other loans while the assessee has made advanced interest free loans to sister concerns amounting to Rs. 1,11,66,639/-. The said advance was given to D.S.M. Steel and Wire Pvt. Ltd, and De Son Infra Realty Pvt. Ltd. being 100% subsidiary of the assessee company. Similarly the AO observed that the assessee has made same advances for acquisition of building to the tune of Rs. 1,15,77,235/-. The AO was of the view that the assessee has borrowed funds and therefore proportionate interest

pertaining to the advances to the subsidiary and investment in the building needs to be disallowed and added to the income of the assessee. Accordingly show cause notice was given which was replied by the assessee by submitting the assessee has sufficient own interest free funds which were far more than the aggregate amount of advances made to subsidiaries and investment in building and therefore no disallowance of interest is required to be made. However the contentions of the assessee did not find favour with the AO and he disallowed Rs. 16,19,163/- out of interest expenses calculated @ 14.5% .

4. In the appellate proceedings the Ld. CIT(A) partly allowed the appeal of the assessee by observing that the assessee has received amount of Rs. 1,51,50,000/- from its dealers on which interest @ 8.5% was paid and therefore directed the AO to restrict the disallowance on account of interest to the extent of Rs. 9,49,163/- @ 8.5%.

4. After hearing rival parties and perusing the material on record including the balance sheet of the assessee which showed that sufficient interest free funds were available with the assessee. We note that the interest free funds available as on 31.03.2014 were Rs. 2,72,27,731/- whereas the payments to the sister concern were Rs. 1,11,66,639/- and investment in building was Rs. 1,15,77,235/- which obviously lower than the assessee's own interest free fund available in the business. We therefore find merit in the contentions of the assessee that no disallowance is required to be made in view of the interest free funds of the assessee being more than the investment in building and advances to the subsidiaries. At the same time, we do not concur with the arguments advanced by the Ld. D.R. that the assessee has not furnished any fund flow statement to prove the fact that investment in building and advances to two subsidiaries were made out of interest free own funds available with the assessee. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the disallowance.

5. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 13th May, 2022

Sd/-

(Sonjoy Sarma)
Judicial Member

Sd/-

(Rajesh Kumar)
Accountant Member

Dated: 13th May, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- De Son Marketing Pvt. Ltd., Mihitikri, P.O.-Deulia, PS-Kolaghat, Purba Medinipur.
2. Respondent – ACIT, Circle-39, Midnapore
3. The CIT(A)- 11, Kolkata
4. Pr. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata