

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT  
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.2630/Kol/2019  
Assessment Year: 2014-15**

<b>M/s. Prity Tubes Pvt. Ltd. 44A, Jheel Road, Salkia, Howrah-711106 (PAN: AACCP3151E)</b>	<b>Vs.</b>	<b>Joint Commissioner of Income Tax, Central Circle- 13(2), Kolkata.</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Present for:

Appellant by : Shri P, K, Agarwal, FCA

Respondent by : Shri Sudipta Guha, CIT, DR

Date of Hearing : 18.05.2022

Date of Pronouncement : 01.08.2022

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal by the assessee is directed against the order of Id. CIT(A)-5, Kolkata vide Appeal No. N256/CIT(A)-5/Cir-14(1)/16-17/Kol dated 14.10.2019 for A.Y. 2014-15 passed against the assessment order u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by ACIT, Circle-14(1),Kolkata dated 28.12.2016.

2. The grounds of appeal taken in this appeal are reproduced as under:

- "1. That the learned CIT(Appeals) erred in law as well as facts in confirming the addition/disallowance of Rs.4,05,22,204/- out of Finance Cost.*
- 2. That the learned CIT (Appeals) erred in law as well as facts in holding that appellant could not prove the nexus between the Sundry Debtors and Long Term Advances as per accounts and thereby confirming disallowance of Rs.40522204/- out of Finance Cost.*
- 3. That the learned CIT(Appeals) erred in law as well as facts in sustaining disallowance of Rs.1822024/- being depreciation on Motor Car inspite of Purchase Bills, Bank loan for car, Tax Token and other evidences.*
- 4. That the learned CIT(Appeals) erred in law as well as facts in sustaining disallowance/addition of Rs.2544304/- being Sales Promotion Expenses and passing remark that "expenditure incurred mostly for trips to holiday destination i.e. Bangkok etc." without any basis whatsoever."*

3. Brief facts as culled out from the records are that assessee is in the business of manufacturing and trading of M.S. pipes etc. Assessee has filed its return of income on 29.11.2014 reporting a loss of Rs.49,49,312/-. In the course of assessment proceedings, Ld. AO sought explanations and documents in respect of long term advance of Rs.45,02,46,720/-. He also sought details in respect of sales promotion and advertisement expenses claimed by the assessee as well as required the assessee to produce purchase bills for motor cars added to the fixed and assets amounting to Rs.1,17,40,731/-.

3.1 In respect of long term advances the assessee submitted that these are long outstanding dues from its parties/debtors which have been transferred to long term advance which are outstanding for more than a year and attempts are being made to recover these long term overdue amounts from them. In respect of sales promotion and advertisement expenses, assessee submitted the bills of air tickets and the commission given to the travel agents and produced ledger accounts for the same. In respect of purchase bills for motor cars, no bills were produced before the AO except for the ledger statement for the motor cars purchase. Based on these submissions, ld. AO concluded the assessment by making the disallowance/addition to the total income. Aggrieved, the assessee went in appeal before the Ld. CIT(A).

4. Before Ld. CIT(A), assessee submitted the list of debtors totaling to Rs.45,02,46,720/- placed at page 27 to 29 of the paper book and stated that as on 01.04.2013 the opening balance of trade debtors was Rs.43,15,00,742/- and that of debit balance in sundry creditors of Rs.1,87,50,114/-, totaling to Rs.45,02,50,856/-. It was submitted that out of this, amount of Rs.45,02,46,720/- was transferred to long term advance and was duly reflected and reported in the audited balance

sheet. No new advance was given by the assessee during the year. It was contended that long term borrowings on which interest has been paid was in respect of these long term advances. Ld. CIT(A) confirmed the addition in this respect of Rs.4,05,22,204/- by observing that assessee did not furnish any reason as to why the sundry debtors were converted into long term advances.

4.1. In respect of sales promotion and advertisement expenses, assessee submitted the ledger account of these expenses and gave certain break up. It was submitted that these expenses were undertaken to promote sales of the assessee for which payments were made by cheque to travel agents and foreign exchange dealers and thus, it has rightly claimed these as allowable expenses. However, Ld. CIT(A) confirmed the addition of Rs.18,22,024/- by observing that assessee could not establish any nexus between the expenses incurred and its business and how it resulted in to additional business and exports.

4.2. In respect of depreciation claim on the motor cars, assessee submitted purchase bill of one motor car for which total value of Rs.47,82,133/- was explained out the total value of Rs.1,17,40,731/-. Assessee gave explanation in respect of three other cars which were purchased during the year but according to Ld. CIT(A) assessee failed to submit purchase bills for the same. Ld. CIT(A) considering the material placed on record and the explanation given by the assessee, sustained the addition of Rs.18,22,024/- in respect of depreciation claimed on the motor cars in absence of the documentary evidences not furnished by the assessee. Aggrieved, assessee is in appeal before this Tribunal.

5. Ld. Counsel of the assessee placed on record a written submission and paper book containing 33 pages. In respect of the first issue relating to disallowance of Rs.4,05,22,204/- in respect of long term

advance of Rs.45,02,46,720/-, Ld. Counsel by referring to Note No. 3 and 3.1 forming part of the audited balance sheet placed at page 21 of the paper book, submitted that during the year, working capital cash credit loan was converted into working capital term loan under loan restructuring by State Bank of India, Commercial Branch, Kolkata amounting to Rs.33.53 Cr. In addition to this, there were other loans and advances amounting to Rs.11.10 Cr. thus, totaling to Rs.44.63 Cr. In the immediately preceding year, the long term borrowings were only at Rs.1.54 Cr. whereas the short term borrowings as reported in Note No. 4 were Rs.55.72 Cr. Further, Ld. Counsel referred to Note No. 10 on long term loans and advances simultaneously with Note No. 14 as trade receivables, both placed at pages 22 and 23 of the paper book, to demonstrate that what was reported as trade receivables in the immediately preceding year was now reported as long term loans and advances in the year under consideration. He pointed out that in the immediately preceding year, long term loans and advances were at Rs.7.1 lacs only. In the year under consideration, the long term loans and advances have been reported at Rs.55.56 Cr. which includes Rs.45.02 Cr. as “other loans and advances” and Rs.10.47 Cr. “as advance to parties against supply of materials”. Against this, the trade receivables in the current year are reported as Rs.8.22 Cr.

5.1. Further, Ld. Counsel pointed out to the annexure forming part of auditor’s report in para 3(a) placed at page no. 7 of the paper book for the observation made by the auditor that the company was having cash credit loan of Rs.45 Cr. from State Bank of India, Commercial Branch, Park Street, Kolkata. During the year it has been converted partially into working capital term loan and FITL to the tune of Rs.34.67 Cr. Further, it is noted that in addition to this, assessee is also having Factor loans from SBI Global Factors Ltd. and India Factoring & Finance Solutions Pvt. Ltd.

5.2. By referring to all these material placed on record, Ld. Counsel emphasized that no new loans and advances were given during the year by the assessee for which the long term borrowings have been utilized as alleged by the Ld. AO, who has thereby disallowed an interest in the sum of Rs.4,05,22,205/-. Ld. Counsel further submitted that it was only an exercise of restructuring the borrowings which compelled the assessee to report its trade receivables into long term loans and advances since the working capital cash credit loan was restructured into working capital term loan for which all the necessary disclosures were made in the audited financial statements by the assessee and also by the auditors in their audit report.

6. On the other hand, Ld. Sr. DR placed heavy reliance on the orders of the lower authorities.

7. We have heard rival submissions and gone through the facts and circumstances of the case and the materials available on record. By referring to the audited financial statements as pointed out by the Ld. Counsel, we find force in the submission and explanation given by him. In the course of hearing, a chart has been submitted explaining the long term borrowing utilization which very clearly depicts the treatment of the long term borrowing and its utilization. The same is reproduced hereunder:

(intentionally left blank)

Long Term Borrowing Utilisation StatementAccount Note 3 – Long Term Borrowing (Paper Book Page – 21)

Closing Figure	446,314,283
Opening Figure	15,410,880
Current Figure	430,903,403

Say ₹ 43 Crores (S.B.I 33.5 Plus Directors 9.5)

Utilisation of Long Term Borrowing

1)	Repayment of Short term Borrowings – Accounts Note 4 – Paper Book Page-21		
	Closing	401,855,150	
	Opening	557,231,330	
	Repaid	155,376,180	155,376,180
2)	Advance to Parties against supply of Materials – Accounts Note 10, S. No.3 – Paper Book Page-22		104,700,000
3)	Increase in Inventory – Accounts Note 13 – Paper Book Page-23		
	Closing	547,012,863	
	Opening	469,137,190	
	Increase being purchase of goods	77,875,673	77,875,673

4)	Increase in Debtors Note – 14: Trade Receivables Paper Book Page-23		
	Closing	82,746,551	
	Add Transfer to Other Loans & Advances Note 10 Paper Book Page 22 (Including Some debit balance in Sundry Creditors)	450,246,720	
		532,993,271	
	Less : Opening	431,500,742	
	Increase in Debtors	101,492,529	101,492,529
		Total	439,444,382

Utilisation is approximate figures.

8. Considering the above submissions and factual matrix, with all its proper reporting and disclosure, we are inclined to accept the submissions of the Ld. Counsel and direct the Ld. AO to delete the addition made in this respect of Rs.4,05,22,204/-. Accordingly, the grounds of appeal in this respect are allowed.

9. Coming to the next issue of sales promotion and advertisement expenses, we note that despite several queries and opportunities made available by the authorities below, the assessee has not been able to establish the nexus between the expenses incurred and the business of the assessee. Assessee has all along submitted only the ledger account copy, which are not sufficient to understand the nature and the purpose of expenses incurred as well as its nexus with the benefits accruing to the business of the assessee. In the interest of justice and fair-play and to give another opportunity to the assessee, we find it proper to remit the matter back to the file of Ld. AO on this issue and direct the assessee to submit necessary documentary evidences required by the authorities below for substantiating its claim for the deductibility of the expenses. Ld. AO is also directed to provide reasonable opportunity of being heard to the assessee for making necessary submissions in this respect. Upon verification of the submissions made by the assessee and based on satisfaction therefrom, Ld. AO may assess the allowability of these expenses in accordance with the provisions of law. Accordingly, this ground of appeal is allowed for statistical purposes.

10. In respect of issue relating to claim of depreciation on motor cars, we note that the addition to the motor cars is reported in Note No. 8 titled as "Fixed Assets" placed at page 19 of the paper book. Addition reported during the year is of Rs.1,17,40,731/- towards motor cars out of which the assessee has submitted purchase bills in respect of only

one car amounting to Rs.47,82,133/-. Assessee has submitted only explanations in respect of purchase of three other cars as noted by the Ld. CIT(A) but no purchase bills and other documentary evidences have been placed on record. Assessee has claimed that all the payments in respect of purchase of motor cars have been made through banking channel. In the interest of justice and fair play, we find it proper to remit the matter back to the file of Ld. AO and direct the assessee to furnish all the required documents towards the purchase of motor cars as reported in its audited financial statements on which depreciation of Rs.18,22,024/- has been claimed. Ld. AO is also directed to provide reasonable opportunity of being heard in this respect so as to enable the assessee to substantiate its claim. Accordingly, this ground of appeal is allowed for statistical purposes.

11. In the result, the appeal of the assessee is partly allowed.

Order is pronounced in the open court on 1<sup>st</sup> August, 2022.

**Sd/-**  
**(RAJPAL YADAV)**  
**VICE PRESIDENT**

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

Kolkata, Dated: 01.08.2022

JD, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:.
3. CIT(A)-50 Kolkata
4. The CIT- Kolkata.
5. The DR, ITAT, Kolkata Bench, Kolkata

//True Copy//

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata