

**THE INCOME TAX APPELLATE TRIBUNAL
DELHIBENCH 'C', NEW DELHI**

Before Sh. C. M. Garg, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 1541/Del/2019 : Asstt. Year: 2013-14

G. S. Pharambutor Pvt. Ltd, C/o Kashyap & Co, CA 214, Citi Center, Begum Bridge Road, New Delhi-110019	Vs.	DCIT, Circle-10(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAACG2925P		

Assessee by : Sh. P. S. Kashyap, CA

Revenue by : Sh. Anuj Garg, Sr. DR

Date of Hearing: 08.02.2023

Date of Pronouncement: 14.02.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id CIT(A)-4, New Delhi dated 28.12.2018.

2. The assessee has raised the following grounds of appeal:

- "1. That the Ld. A.O has erred in law as well as on facts in making addition of Rs 3,36,00,000/- on account of disallowance of interest u/s 36(1)(iii) on account of investment in convertible debentures. The action of Ld. A.O in making addition is bad in law and against the facts and circumstances of the case.
2. That the Ld. AO has erred in law as well as on facts in making disallowance of Rs. 1,99,83,172/- on account of interest on borrowed funds. In first appeal Ld CIT(A) has restricted the disallowance to Rs. 1,55,01,937/-. The action of Ld. A.O in making addition is bad in law and against the facts and circumstances of the case."

Disallowance of Interest u/s 36(1)(iii):

3. Suffice it to state that, the AO disallowed interest on borrowings which has been confirmed by the Id. CIT(A). The same issue has been dealt by the Tribunal in extenso in the order dated 08.1.2021 in assessee's own case for the A.Y. 2015-16 in ITA No.6716/Del/2018. In the absence of any change in the facts of the case and legal proposition, we decline to support the rationale of the Id. CIT(A) on this issue.

Disallowance of Interest:

4. The assessee incurred expenditure of Rs.13.15 crores in capital work in progress on cumulative basis. During the year under consideration an amount of Rs.9.7 crores has been added to work in progress. The AO disallowed Rs.1.99 crores on account of the interest paid. The AO held that the interest on borrowed funds utilized on work in progress needs to be disallowed. The Id. CIT(A) restricted the disallowance to Rs.1.55 crores. It was argued before us that the assessee has earned an amount of Rs.5.27 crores from the advances given and also paid an interest of Rs.5.78 crores. In that case, the net interest incurred would be Rs.50,99,073/- which needs to be disallowed being the interest incurred on specified business loans which are not directly related to any specific purpose. Hence, the case is being remanded to the file of the AO with direction to re-compute the disallowance after taking into consideration the own funds available in the form of share capital and reserves & surplus that the funds utilized for non-business purposes be re-computed after deducting the amount of the own funds available as per the balance sheet.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 14/02/2023.

Sd/-

(C. M. Garg)
Judicial Member

Dated: 14/02/2023

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Subodh Kumar/AK, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR