

आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.212/Viz/2023
(निर्धारण वर्ष / Assessment Year : 2014-15)**

Ratnam Jute (P) Ltd.
D.No.2-1, Palakonda Road,
Rajam, Srikakulam
[PAN : AABCR4024P]

Vs. Income Tax Officer
Ward-3
Srikakulam

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से / Respondent by

: Shri G.V.N.Hari, AR
: Shri Madhukar Aves, DR

सुनवाई की तारीख / Date of Hearing

: 23.08.2023

घोषणा की तारीख/Date of Pronouncement

: 29.08.2023

आदेश /O R D E R

Per Shri Duvvuru RL Reddy, Judicial Member :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No. ITBA/NFAC/S/250/2023-24/1053339971(1), arising out of the assessment order passed by the Assessing Officer (AO) u/s 143(1) of the Income Tax Act, 1961 (in short "Act") dated 06.12.2016 for the Assessment Year (A.Y.) 2014-15.

2. Brief facts of the case are that the assessee, a Private Limited Company, doing business in trading of raw jute in the name and style of

“M/s Ratnam Jute Private Ltd.” at Rajam, e-filed its return of income on 18.09.2015, admitting taxable income of Rs.1,43,480/-. The case was selected for scrutiny and notice u/s 143(2) dated 18.09.2015 was issued and served on the assessee on 19.09.2015. The Assessing Officer (AO) observed that as per the profit and loss account as on 31.03.2014, the assessee had debited Rs.61,35,486/- towards interest paid to CC account State Bank of India, Rajam, Loan A/c No.30363600604, against the loan availed on stock and the limit is Rs.1,70,00,000/- on 31.03.2014. During the examination of books of accounts and balance sheet, the AO observed that the assessee company had advanced Rs.7,50,00,000/- (Rs.2,50,00,000/- each) to S/Shri K.Swapna, K.Harika and K.Sravanthi, by diverting the share investment amounts of M/s KVR Industries Ltd, the source of investment being loan availed on current account operated by the assessee company with State Bank of India Rajam and Visakhapatnam. The AO observed that the assessee company is paying interest and claiming such expenditure in its return of income. The AO observed that on the funds transferred to above three persons, out of share investment amount held by the assessee company in its name with KVR Industries, neither any interest was charged nor the company had made any attempt to collect any part of the advance during the current

financial year. The assessee company had borrowed funds from different current accounts and paying interest thereupon and claimed the same as business expenditure in its return of income, thereby the profits of the company are reduced to that extent. The assessee was asked to file its objection for disallowance of interest claim of Rs.61,35,486/- for not charging interest on the advances paid to the above three persons. The assessee replied that the loans and advances outstanding were given in the earlier years and the outstanding balance in the balance sheet represent brought forward balance of the previous years. The loans were given from interest free business funds and were only given for business purpose during the year. Not being satisfied with the reply given by the assessee, the AO held that the assessee company could not prove the nexus with interest free advances were for the purpose of business and on account of commercial expediency for transfer of the funds / profits transferred / utilized by company to others, with whom it had no business dealings and on such transfers no interest was also charged, whereas, on the amount of Rs.7,44,75,000/-, the company had paid interest of Rs.24,35,504/- on the borrowed funds. The AO further observed that if the funds are realised, there is no necessity to the

assessee to incur this expenditure. Accordingly, disallowed the interest expenditure of Rs.24,35,504/-.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal of the assessee.

4. Aggrieved by the order of the Ld.CIT(A), the assessee preferred an appeal before the Tribunal by raising the following grounds :

1. The order of the learned Commissioner of Income Tax(Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in dismissing the appeal exparte.

3. The learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.24,35,504 made by assessing officer towards disallowance of interest expenditure.

4. The learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.36,79,329/- made by the assessing officer u/s 40(1)(ia) of the Act towards disallowance of interest paid to National Collateral Management Services Ltd.

5. Any other grounds may be urged at the time of hearing.

5. Ground No.1, 2 and 5 are general in nature, which do not require specific adjudication.

6. Ground No. 4 is not pressed by the Ld.AR, hence, dismissed as not pressed.

7. Ground No.3 is related to disallowance of interest expenditure of Rs.24,35,504/- made by the AO. The Ld.AR reiterated the submissions made before the CIT(A) and stated that there was no diversion of funds. The assessee company had invested an amount of Rs.6,75,00,000/- and Rs.75,00,000/- during the F.Y.2007-08 and 2008-09 respectively, aggregating to Rs.7,50,00,000/- in M/s KVR Industries Pvt. Ltd., a sister concern of the assessee company, towards share application money. During the F.Y.2010-11, the assessee withdrew the share application money of Rs.7,50,00,000/- from the sister concern, M/s KVR Industries Ltd and advanced Rs.2,50,00,000/- each to K.Swapna, K.Harika and K.Sravanthi., daughters of the director of the assessee company. The Ld.AR further submitted that the assessee availed credit facility from SBI on stock and the limit is Rs.1,70,00,000/- on 31.05.2014 and the loan amount was utilized for the business on which the assessee company paid interest. Hence, there is no nexus between the loan funds and the interest free advances. Thus, it is evident that the advances are not given from interest bearing funds, therefore, pleaded that the interest paid cannot be disallowed. The assessee relied on the decision of Hon'ble ITAT in the case of ACIT Vs. Rohit Kochar in ITA No.3338/Del/2016 dated 30.11.2018 and also the decision of the Tribunal in assessee's own case for the A.Y.2012-13 and 2013-14 and pleaded to set aside the order passed by the Ld.CIT(A) and allow the appeal of the assessee.

7. Per contra, the Ld.DR relied on the order of the Ld.CIT(A) and pleaded to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

8. We have heard both the parties and perused the orders of the lower authorities. On similar set of facts, the assessee's case for the A.Y.2012-13 and 2013-14 was adjudicated in favour of the assessee in I.T.A. No.43/Viz/2023 & 44/Viz/2023 dated 14.07.2023. For the sake of clarity and convenience, we extract relevant part of the order of the Tribunal, which reads as under :

"8. I have heard both the parties, perused the orders of the lower authorities and the paper book filed by the assessee. In the instant case, it is apparent from the records that the assessee had invested an amount of Rs.6,75,00,000/- during the F.Y.2007-08 and Rs.75,00,000/- during the F.Y.2008-09, aggregating to Rs.7,50,00,000/- in M/s KVR industries Ltd. a sister concern of the assessee company. It is evident from para No.2 of the assessment order that the assessee company had availed Cash Credit (CC) facility from State Bank of India, Rajam on hypothecation of stock and the limit sanctioned was Rs.1,70,00,000/-, on which interest is paid and renewed every year. Further, I observe from the ledger account for the F.Y.2008-09, vide page No.18 of the paper book, the assessee had made share investment in KVR Industries Ltd., amounting to Rs.6,75,00,000/- before 01.04.2008, which clearly establishes the fact that the cash credit loan availed by the assessee was not utilised for the purpose of investment in KVR Industries, which was subsequently withdrawn during the A.Y.2011-12 for making payment of Rs.7,50,00,000/- (Rs.2,50,00,000/- each) to K.Swapna, K.Harika and K.Sravanthi, daughters of the director of the assessee company. Hence, there is no nexus between the loan funds and the interest free advances as the loan was sanctioned much earlier than the transaction of giving advances to the three persons. Now, the onus is on the revenue to establish that there is nexus between the interest bearing funds and interest free advances, but, the revenue failed to establish the same. The assessee relied on the decision of Hon'ble ITAT in the case of ACIT Vs. Rohit Kochar in I.T.A. No.3358/Del/2016 dated 30.11.2018 and submitted that on similar set of

facts, the case was adjudicated in favour of the assessee. For the sake of clarity and convenience, relevant part of the order of the Tribunal is extracted as under :

“that there is factual finding given by the CIT(A) that as regards the interest free advances given by the assessee even prior to the loan raised from the bank for acquiring vehicles and business properties, the Revenue has failed to establish any nexus between the interest bearing funds and interest free advances made to his relatives and friends. Moreover, no cogent evidence is there on the file if secured loans have not been used by the assessee for business purposes. Assessee proved to have taken the secured loans for specific purpose and their utilization has not been disputed by the AO. AO has merely made the addition on the ground that the assessee has utilized sizable amount out of the secured loans to be given as interest free advances to his family members, related concerns and for acquiring property for their personal needs. CIT(A) has rightly deleted the addition.”

In the instant case also, the AO has not established the fact that the secured loan of Rs.1,70,00,000/- availed from State Bank of India was utilized for advancing interest free loans to the three persons. The revenue could not controvert the fact that the funds advanced by the assessee were only after withdrawing the share capital from M/s KVR Industries. Hence, respectfully following the decision of the Hon'ble ITAT Delhi in the case of ACIT Vs. Rohit Kochar (supra), I quash the order passed by the Ld.CIT(A) and direct the AO to delete the addition of Rs.27,66,685/- made towards disallowance of interest.

9. In the result, appeal filed by the assessee in I.T.A. No.43/Viz/2023 for the A.Y.2012-13 is allowed and in I.T.A.No.44/Viz/2023 for the A.Y.2014-15 is also allowed mutatis mutandis.

Hence, respectfully following the decision of Hon'ble ITAT, Delhi and Visakhapatnam, we are inclined to quash the order passed by the Ld.CIT(A) and direct the AO to delete the addition of Rs.24,35,504/- made for the A.Y.2014-15.

9. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 29th August, 2023.

Sd/-
(एस बालाकृष्णन)
(S.BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER
Dated : 29.08.2023
L.Rama, SPS

Sd/-
(दुव्वूरु आर.एल रेड्डी)
(DUVVURU RL REDDY)

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee- M/s Ratnam Jute (P) Ltd., D.No.2-1, Palakonda Road,Rajam, Srikakulam
2. राजस्व/The Revenue - The Income Tax Officer, Ward-3, Income Tax Office, Palakonda Road, Srikakulam
3. The Principal Commissioner of Income Tax, Visakhapatnam
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam