

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

Before
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.621/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Shri Sandeep Gangula Karimnagar PAN:AMDPG0238R (Appellant)	Vs.	Dy. C. I. T. Circle 1 Karimnagar (Respondent)
निर्धारिती द्वारा / Assessee by: Shri Guna Sekhar Reddy, CA		
राजस्व द्वारा / Revenue by: Shri G. V.P. Pavan Kumar, DR		
सुनवाई की तारीख / Date of hearing: 18/07/2024		
घोषणा की तारीख / Pronouncement: 18/07/2024		

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 6/5/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17.

2. The brief facts of the case are that the assessee is an individual and engaged in the business of trading in granite in the name and style of M/s. Venkateshwara Granites filed his return of income for the A.Y 2016-17 on 25.12.2017 admitting total income of Rs.5,93,240/-. During the course of assesment proceedings, the Assessing Officer noticed that the assessee has debited an

amount of Rs.15,35,670/- interest on loans. The Assessing Officer therefore, noted that the assessee had given Rs.1.50 crore loan to M/s Ranvir Projects on 31/10/2015 without any interest. Since the appellant has paid interest on loan borrowed from banks and diverted part of interest bearing funds for non-business purposes in advancing loan to M/s Ranvir Projects, the Assessing Officer has computed the proportionate interest disallowance of Rs.6,25,000/- u/s 36(1)(iii) of the I.T. Act, 1961.

3. The assessee carried the matter in appeal before the first appellate authority but could not succeed. The learned CIT (A) for the reasons stated in the appellate order dated 6.5.2024 rejected the explanation of the assessee and sustained the addition so made towards interest disallowances.

4. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee referring to the financial statement for the financial year 2015-16 submitted that the assessee is having sufficient interest free funds in the form of loans received from M/s. Gayatri Granites to the tune of Rs.3,07,80,000/- and out of the said interest free funds has given advance to another group company. Since the appellant is having

sufficient own funds which is in excess of loans, the question of disallowance of interest paid on loan does not arise.

6. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that the assessee could not establish availability of funds with necessary details which is evident from the order passed by the learned CIT (A). Although the appellant claims to have received interest free loan from another group company, but fact remains that the assessee has paid huge interest on bank borrowals and thus, the Assessing Officer and the learned CIT (A) are right in disallowing the proportionate interest u/s 36(1)(iii) and therefore their orders should be upheld.

7. I have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The Assessing Officer disallowed proportionate interest of Rs.6,25,000/- on loans given to M/s. Ranvir Projects amounting to Rs.1.50 crore on 31.10.2015. According to the Assessing Officer, the appellant has borrowed loans from banks/financial institutions and paid interest, whereas diverted part of interest bearing loans to give interest free advances to sister concern. It was explanation of the assessee that the appellant is having sufficient own funds and out of interest free funds received from another group company M/s Gayatri Granites, it has given advance of Rs.1.50 crores. Therefore, the question of disallowance of interest expenses does not arise. We find force in the argument

of the assessee for the simple reason that as per the financial statement for the year ending 31.03.2016, the appellant has received Rs.3,07,80,000/- interest free funds from M/s. Gayatri Granites and out of said fund, advanced a sum of Rs.1.50 crores to M/s. Ranvir Projects. Since the appellant is having sufficient own funds/interest free borrowings, to explain loan given to another group company without interest, in our considered view, the Assessing Officer is erred in disallowance of proportionate interest expenditure u/s 36(1)(iii) of the I.T. Act, 1961. This view is verified by the decision of the Hon'ble Bombay High Court in the case of CIT vs. Reliance Utilities and Power Ltd reported in (2009) 313 ITR 340 (Bom). Therefore, I am of the considered opinion that the learned CIT (A) is erred in upholding the additions made by the Assessing Officer towards disallowance of interest u/s 36(1)(iii) of the Act. Thus, I set aside the order of the learned CIT (A) and direct the Assessing Officer to delete the addition made towards the disallowance of interest u/s 36(1)(iii) of the I.T. Act, 1961.

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

Order pronounced in the Open Court on 18th July, 2024.

Sd/-

**(MANJUNATHA, G.)
ACCOUNTANT MEMBER**

Hyderabad, dated 18th July, 2024

Vinodan/sps

Copy to:

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1	Sandeep Gangula, H.No.3-1-277 Christian Colony, Karimnagar 505001
2	Dy.CIT Circle-1 Karimnagar
3	Pr. CIT – Hyderabad/CIT (A)-Adj/JCIT(A)-2 Mumbai
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order