

**IN THE INCOME TAX APPELLATE TRIBUNAL “H” BENCH, MUMBAI
BEFORE SRI MAHAVIR SINGH, JM AND SRI RAJESH KUMAR, AM**

ITA No.4687/Mum/2016

(A.Y:2010-11)

DNV GL AS (formerly known as DET Norske Veritas AS) Equinox Business Park, Tower 3, 6 th Floor, Off Bandra Kurla Complex, L.B.S Marg, Kurla (W), Mumbai-400 070 PAN No. AABCD9812F	Vs.	ADIT (International Taxation)-1(2) Mumbai
Appellant	..	Respondent
Assessee by	..	Shri Virendra Singh Khurana, AR
Revenue by	..	Shri M.C. Omi Ningshen, DR
Date of hearing	..	11-05-2017
Date of pronouncement	..	31-05-2017

ORDER

PER MAHAVIR SINGH, JM:

This appeal by the assessee is arising out of the orders of CIT(A)-56, Mumbai, in appeal No. CIT(A)-56/ADIT(IT)-1(2)/2014-15/262-D dated 28-03-2016. The Assessment was framed by ADIT (IT)-1(2), Mumbai for the A.Y. 2010-11 vide order dated 30-04-2014 u/s 144C (3) read with section of the Income Tax Act, 1961 (hereinafter ‘the Act’).

2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the action of the AO in disallowing the clam of expenses on interest paid on delayed payment of TDS as business income. For this assessee has raised following ground No. 1: -

“1. Interest paid on delayed payment of TDS of Rs. 73,923/-

On the facts and in the circumstances of the case and in law, the learned AO erred in disallowing a sum of Rs.

73,923/-, being interest paid the appellant on delayed payment of TDS.

The appellant prays that the interest of Rs. 73,923/- paid by the appellant on delayed payment of TDS be allowed to the appellant.”

3. We have heard the rival contentions and gone through the facts and circumstances of the case. Brief facts are that the AO perusing the profit and loss account noticed that the assessee has paid an amount of Rs. 73,923/- being interest on delayed payment of TDS and he require the assessee as to explained as to why the same should not be disallowed. The assessee claimed that the TDS relates to payment to various traders and the same is in connection and for the purpose of business. The AO noted that this amount is incurred on delayed payment of TDS and TDS being tax on income and same cannot be allowed as business expenditure under section 37(1) of the Act. Accordingly, the same was disallowed. Aggrieved, assessee preferred the appeal before CIT(A). The CIT(A) confirmed the action of the AO by observing as under: -

“ Considering the submissions made by the assessee and the reasons recorded by the AO & based on the above discussions and facts of the case, I am of the opinion that the said adjustment relating to Interest on delayed payments of TDS is not deductible as an expense under the Act and is therefore disallowed.

The expenses in this case were incurred for a very different purpose. When interest is paid for committing a default in respect of statutory liabilities, the amount paid and the expenditure incurred in connection to this are in no way connected to preserving or promoting the business of the appellant. In view of the same, the appellant is not allowed to take the benefit of interest paid on delayed payment of TDS as an eligible expense.”

4. We find that the facts are undisputed that the assessee has claimed interest as expense incurred for delayed payment of TDS. We find that this interest is paid for default in respect to statutory liabilities and this interest cannot be treated as business expenditure under section 37(1) of the Act. We find no infirmity in the order of CIT(A) and hence, the same is confirmed. The appeal of assessee is dismissed.

5. **In the result, appeal of assessee is dismissed.**

Order pronounced in the open court on 31-05-2017.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Mumbai, Dated:31-05-2017

Sudip Sarkar /Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//
BY ORDER,
Assistant Registrar
ITAT, MUMBAI