



2024/KER/23449

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

MONDAY, THE 25<sup>TH</sup> DAY OF MARCH 2024 / 5TH CHAITHRA, 1946

ITA NO. 76 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.09.2018 IN ITA NO.237  
OF 2018 OF I.T.A.TRIBUNAL,COCHIN BENCH

APPELLANT

M/S. MINI MUTHOOTTU CREDIT INDIA (P) LTD.  
MUTHOOT BUILDING, KOZHENCHERRY - 689 641.

BY ADVS.  
MOHAN PULIKKAL  
SRI.NARAYANAN POTTI  
SMT.A.AMRUTHA VIDYADHARAN

RESPONDENT

THE COMMISSIONER OF INCOME TAX  
KOTTAYAM

BY ADVS.  
SRI.P.K.RAVINDRANATHA MENON (SR.)  
SRI.JOSE JOSEPH, SC, FOR INCOME TAX

SC-CHRISTOPHER ABRAHAM.

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION  
ON 25.03.2024, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**JUDGMENT**

Dr. A.K.Jayasankaran Nambiar, J.

M/s. Mini Muthoot Credit India (P) Ltd. is the appellant before us, aggrieved by the order dated 04.09.2018 of the Income Tax Appellate Tribunal, Cochin Bench in I.T.A.No.237/Coch/2018.

2. The brief facts necessary for disposal of this appeal are as follows:-

The appellant-assessee is engaged in the business of asset management services. For the assessment year 2012-13 it had declared a total income of Rs.1,08,22,440/-. Its case was selected for scrutiny under Section 143(2) of the IT Act and the assessment that followed, it was assessed to a total income of Rs.2,02,75,110/-. In arriving at the total income, the assessing officer disallowed a sum of Rs.90,73,279/- being the interest that was paid by the appellant on long-term borrowings. The disallowance by the assessing authority was on the ground that the loan amount in question was used by the appellant for purchasing land worth Rs.5,91,52,500/-, which was an agricultural land and on which the appellant had cultivated tapioca. The assessing authority therefore found that, in as much as the loan on which interest liability had arisen, was used for purchasing



agricultural and earning agricultural income, the interest expense incurred on the loan amount availed could not be allowed as an expense under Section 36 of the Income Tax Act since it was not used for business purposes.

3. In the appeal preferred by the appellant before the Commissioner of Income Tax (Appeals), the Appellate Authority found that the appellant had acquired the land in question for the purposes of business and had exclusively used the same for business purposes. It is significant that in the order of the Appellate Authority, there is no specific reason/material to support the finding that the appellant had used the land exclusively for business purposes.

4. Against the order of the First Appellate Authority that was in favour of the appellant, the revenue preferred an appeal before the Income Tax Appellate Tribunal. The appellate tribunal after perusing the balance sheet, profit and loss account and the tabulated financial results of the appellant as produced by its authorised representative, found as follows in paragraph 6 of its order.

“6. We have heard the rival parties and perused the record. The question for our consideration is whether the interest bearing funds have been utilized by the assessee-company for acquiring agricultural land which have yielded agricultural income and as to whether disallowance is required to be made in respect of such interest paid. The facts noted above show that interest bearing loans were used undisputedly for purchase of land for agricultural purpose which yielded agricultural income. The contention of the assessee is that the said land was shown as



business asset in the balance sheet and the land was also used for the purpose of the business of the assessee. However, there was no iota of evidence to show that the land was used for the purpose of the business of the assessee. On the contrary, it was used for agricultural purpose which yielded agricultural income which is exempt from income tax under section 10(1) of the I.T. Act. The assessee has not placed any evidence to show that the land had been used for the purpose of business. The assessee might have shown the agricultural land in its balance sheet as business asset but nothing has been proven on record to show that the assessee was at all using the said land for business activities and as such merely showing the agricultural land in the balance sheet as business asset is not enough to prove the contention of the assessee. The contention of the assessee was that it had used the agricultural land for the purpose of business. That itself shows that investment in agricultural land cannot be held to be business asset because it should have been shown as agricultural land only. Being so, interest incurred on borrowings used for purchase of agricultural land cannot be allowed a deduction in terms of section 36(1)(iii) of the I.T. Act as the condition laid down under section 36(1)(iii) has not been fulfilled. In other words, interest paid in respect of loan is not borrowed for the purpose of the business of the assessee but it has been borrowed for the acquisition of agricultural land which yielded exempted income not liable to tax. In our opinion, there is direct nexus between the interest bearing loans taken by the assessee and the investment made in agricultural land. The income generated from such land acquired by way of borrowings is exempt from tax u/s. 10(1) of the Act. The assessee incurred expenditure on such borrowings and therefore is not entitled for deduction of interest u/s 36(1)(iii) of the Act which was rightly disallowed by the Assessing Officer.”

5. The appellant has impugned the said order of the Tribunal in this appeal wherein the following substantial questions of law have been raised.

i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is correct in reversing the Order of the Commissioner of Income Tax (Appeals), and holding that the expense incurred by way of interest paid on capital borrowed, to the extent of Rs.90,73,279/- was not eligible to be allowed under Sec.36(1) (iii) of the Income Tax Act, 1961?



ii) Whether on the facts and in the circumstances of the case, has not the Tribunal misdirected itself in holding that the interest expense incurred was for earning exempt agricultural income and hence was not an allowable deduction, purportedly under Sec.14A, instead of addressing the real issue as to whether the appellant is entitled to claim the interest expenses paid on borrowed capital as a deduction under Sec. 36(1)(iii) of the Income Tax Act, 1961?

6. We have heard Sri.Mohan Pullikkal, the learned counsel for the appellant and Sri.Christopher Abraham, the learned Standing Counsel for the Income Tax Department.

7. On a consideration of the facts and circumstances of the case and the submissions made across the bar, we find that there is no material produced by the appellant that would clearly suggest that the loan amount availed by it during the assessment year in question had been used for purchasing an asset, which it had used for the purposes of its business as a provider of asset management services. The evidence that was available before the authorities below clearly pointed to the acquisition of agricultural land valued at Rs.5,91,52,500/- and the earning of agricultural income through the sale of tapioca to the tune of Rs.1,93,540/- during the said period. Thus, notwithstanding the fact that the land in question was shown as a business asset in the balance sheet of the company, the fact remains that there was no evidence to show that the land was used for the purposes of the business of the assessee. As rightly noticed



by the Tribunal in the impugned order, the evidence on record showed that the land in question was used for agricultural purposes, which yielded agricultural income, which in turn was exempt from income tax under Section 10(1) of the Income Tax Act. Admittedly, therefore, and in view of Section 14A of the IT Act, the expenses could not have been seen as incurred for the purposes of the business for the purposes of Section 36 (iii) of the IT Act.

We therefore, see no reason to interfere with the well reasoned order of the Tribunal and we dispose this IT Appeal, by answering the substantial questions of law raised therein, against the assessee and in favour of the revenue.

Sd/-

**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-

**SYAM KUMAR V.M.**  
**JUDGE**

smm



APPENDIX OF ITA 76/2019

**PETITIONER ANNEXURES**

- ANNEXURE A**            **THE TRUE OF THE ASSESSMENT ORDER  
DATED 10.02.2015.**
- ANNEXURE B**            **TRUE COPY OF THE ORDER DATED  
12.03.2018 OF THE COMMISSIONER OF  
INCOME TAX (APPEALS) , KOTTAYAM.**
- ANNEXURE C**            **TRUE COPY OF THE ORDER DATED  
04.09.2018 OF THE INCOME TAX  
APPELLATE TRIBUNAL, COCHIN BENCH.**
- ANNEXURE D**            **TRUE COPY OF THE MEMORANDUM OF  
ASSOCIATION OF THE APPELLANT  
COMPANY.**