IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESEIDENT
AND
SHRI PADMAVATHY S, ACCOUNTANT MEMBER

ITA No. 361/Bang/2019
Assessment year : 2014-15

XINDIA Steels Ltd., Kunikere & Hirebaginal Village, Ginigera, Koppal Tq. & Dist. **PAN: AAACX 0521A**	Vs.	The Assistant Commissioner of Income Tax, Circle 1, Bellary.
ASSESSEE		RESPONDENT

Assessee by	:	Smt. Soumya K., Advocate
Respondent by	:	Shri Sankar Ganesh, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	26.05.2022
Date of Pronouncement	:	31.05.2022

O R D E R

Per Padmavathy S., Accountant Member

This appeal is at the instance of the asse directed against the order of the CIT(Appeals), Kalaburagi dated 30.12.2018 for the assessment year 2014-15.

2. Out of the various grounds raised, the main issues that arises for consideration are (i) interest on borrowed funds, and (ii) Corporate Social Responsibility [CSR] expenses.

3. The brief facts of the case are that the assessee is a company carrying on the business of manufacture of Iron Ore Pellets. The majority shareholding of the company is held by non-resident Chinese corporations and roughly 55% held by Chinese Government Companies and about 12 % held by an American Corporate.

4. The assessee filed return of income declaring Rs.45,62,36,080 as per the normal provisions of the Act. While completing the assessment u/s. 143 (3) of the Income-tax Act, 1961 [the Act], the AO made the following additions by way of iinterest disallowed of Rs.2,37,76,873 and Corporate Social Responsibility expenditure of Rs.70,52,990. On appeal, the CIT(Appeals) confirmed the order of the AO. Aggrieved, the assessee is in appeal before the Tribunal.

Interest on borrowed funds

5. The assessee company advanced certain interest-free short term loans of Rs.17,21,00,000 to Shri V P Yakob and others for purchase of agricultural land and the total advances as on 31.03.2014 amounted to Rs.100,54,00,000. The AO was of the view that the company is not allowed to purchase agricultural land and asked the assessee as to why the proportionate interest should not be disallowed regarding interest

free advances/loans given to Mr. V P Yakob and also to establish the nexus between the loan offered to him for business purposes.

6. The assessee submitted that as per the ledger extract opening Balance of advances as on 1.4.2013 was Rs.83.33 crores and during the year an additional advance ofRs.17.21 crores has been given and the total advances as on 31.3. 2014 is Rs.100.54 crores. It was further submitted that the assessee company has Share Capital and Reserves to the tune of Rs.416.54 crores and has earned profit after tax of Rs.46.51 crores during the FY 2013-14. It is therefore evident that the advances are made out of capital and reserves available with the company as also from the profits earned during the FY 2013-14. Further, the borrowals from Banks outstanding as on 31/03/2014 of Rs.77.77 crores are for the working capital and the same are invested in the inventories of Rs.121.81 crores and Trade debtors of Rs.3.85 crores. The outstanding working capital loans are less than the cost of inventories for which bank have funded the assessee. Hence, no working capital has been diverted to pay toward capital advances.

7. It was further submitted that the assessee company could not purchase the agricultural lands and hence the advances were paid to Mr. V P Yacob, an agriculturist, who would purchase the agricultural lands and transfer the same to the company after the conversion from agricultural to non-agricultural land. After conversion and transfer to the company, the lands are to be used for the industrial expansion of the assessee company. The assessee company cannot carry on any

agricultural activities since it is formed for the purpose of manufacture of steel pellets.

8. Since the assessee has borrowed and paid the interest on working capital loan of Rs.2.37 crores on its stock of inventories, no part of the working Capital loans has been used for the purpose of advances for Land. The assessee company has enough reserves and share capital to grant capital advances towards land. Hence no part of interest paid to bank is liable for disallowance.

9. The AO was of the view that the assessee company has given interest free loan to Shri V P Jakob for purchase of agricultural land bearing huge interest expenses of Rs.2,37,76,873 for borrowings from banks. The interest bearing borrowed funds were diverted as interest free loans to individual persons. Considering the decision of the Hon'ble Supreme Court in *S.A. Builders (288 ITR 1)* wherein it was held that disallowance of interest can be made on borrowed capital when the commercial expediency of utilization of such loans was not specified and proved by the assessee, and other judicial pronouncements, the AO disallowed the proportionate interest @ 14.50% and added Rs.2,37,76,873 claimed as interest cost to the income of the assessee u/s. 36(1)(iii) of the Act. He also noted that similar addition was made in the previous assessment year.

10. Before the CIT(Appeals), the assessee submitted that the assessee had net worth of Rs.463.05 crores as on 31st March 2014 and the Opening net worth as on 31st March 2013 was Rs.416. 54 crores.

This is evidenced by the Shareholders Fund as per the Audited Balance Sheet. The shareholders fund contained Share Capital and Reserves and Surplus *(*Comprising Securities Premium and Surplus from Profit and Loss Account*)*. The addition to the Net Surplus from Profit and Loss Account for the F. Y. 2013-14 itself was Rs.46.51 crores. The assessee has not borrowed any interest bearing loan other than the working capital loan from Banks. The working capital loan from banks of Rs.77.78 crores is fully secured by hypothecation of Inventories, Receivables and other current assets. The total Current Assets of Inventories itself is Rs.121.82 crores as per Note 14 to the Balance Sheet. Even if it is assumed that Trade Payables of Rs.26.21 crores *(*as per Note No.7 to the Balance Sheet*)* could have been used to fund the Inventories the Net Inventory would be Rs.95.61 crores. This amount is much more than the Working Capital Loan availed by the assessee. The assessee submitted before the CIT(A) that the AO has erroneously misconstrued that the Working Capital Loan has been used to fund the Loan for purchase of agricultural land and hence has disallowed the entire interest on working capital loan during the year.

11. The CIT(Appeals) observed that the assessee had advance loan for procurement of the agricultural lands which is not part of business activity of the assessee. Thus, it cannot be said that the advance of interest free loans are business related and it has direct observed that the assessee had advance loan for procurement of the agricultural lands which is not part of business activity of the assessee. Thus, it cannot be said that the advance of interest free loans are business related and it

has direct nexus with its activity. If the assessee has business expansion plans or diversification plans it has to be separately booked as capital expenditure and cannot be claimed as revenue expenditure in the existing business. He observed that the assessee could have well utilized the Reserves & Surplus and avoided heavy amount of interest cost. The CIT(Appeals) therefore sustained the addition made by the AO.

12. Aggrieved, the assessee is in appeal before us.

13. The ld. AR submitted that assessee which is controlled by Foreign Investors, was expecting a significant market in respect of the products dealt by it during the relevant previous year. It had world class manufacturing unit located in the interior part of Karnataka at Koppal, a backward district. It had a Raw Material advantage for sourcing as it could obtain raw materials easily from the mines located in and around Bellary. With a view to expand its business, the assessee wanted to set up an additional unit on a larger scale. Accordingly it commissioned a person to identify lands which could be converted with the consent of the government agencies for industrial purposes. In line with the above, the assessee gave interest free advances to Mr. V.P. Yacob, an influentiaI agriculturist and asked him to procure land in and around the area for its expansion.

14. During the year, additionally a sum of Rs.17.21 crores was advanced out of the own funds for this purpose. The net worth position of the Assessee for the two years are as follows:-

(Rs. in crores)

Particulars	Year ending 31/3/2013	Year ending 31/3/2014
Share Capital	130.00	130.00
Reserves & Surplus	286.54	333.05
Total	416.54	463.05

15. It was submitted that the assessee company has no borrowals whatsoever, excepting the working capital finance obtained from banks based on the inventories and other current assets. The advances provided to Mr.Yacob, is only out of its own cash surplus and other resources owned by it. Hence it is submitted that the disallowance of interest made by the AO is totally misconceived and incorrect. Equally, the AO committed a grave error in disallowing interest on opening balances of advances at 14.5 per cent on the total outstanding. The ld. AR relied on the order of this Tribunal in the assessee's own case for AY 2013-14 in ITA No.1605/Bang/2018 dated 23.6.2021 wherein the disallowance of interest was deleted in support of his contentions.

16. The ld. DR supported the orders of lower authorities.

17. We have considered the rival submissions and perused the material on record. This issue was decided by the coordinate Bench of

this Tribunal in the assessee's own case *supra* in favour of the assessee with the following observations:-

> "7. We heard the rival contentions and perused the record. Admittedly, the own funds available with the assessee as at the beginning and end of the year worth Rs.367.92 crores and Rs.416.53 crores respectively. The interest free advances given by the assessee is Rs.87.30 crores as on 31.3.2013. It has been held by Hon'ble Bombay High Court in Reliance Utilities & Power Ltd. 313 ITR 340 (Bom) that where the interest free funds far exceed the value of investments, it should be considered that investments have been made out of interest free funds. Accordingly, the interest disallowance is not called for in the present case.
>
> 8. Even though the A.O. has observed that the Ld. A.R. has accepted for the addition of interest expenditure, the said observation is being disputed now before us. In any case, the decision rendered by Hon'ble Bombay High Court supports the case of the assessee. Since there is no estoppel against law, we are of the view that the interest disallowance is not justified in the facts of the present case. Accordingly, we set aside the order passed by Ld CIT(A) on his issue and direct the A.O. to delete the interest disallowance. "

18. In the instant case also, we find that the own funds were available with the assessee to the extent of Rs.463 crores as against the interest free advances of Rs.100.54 crores to Mr. V.P. Yakob and others. Accordingly, following the above order of the Tribunal in assessee's own case for AY 2013-14, we are of the view that the revenue authorities were not justified in making the disallowance. We delete the addition in this regard.

19. The next issue is regarding disallowance of Expenses on Corporate Social Responsibility [CSR] of Rs. 70,52,990. The AO noticed that assessee debited an amount of Rs.70,53,990 under the head 'CSR account' and called for the assessee to explain the allowability of the same. The assessee explained that amount was spent towards expenses for the being part of expenses incurred towards education expenses of children of the villages Kunikere and Hirebaginal village where the Factory of the assessee is situated. The assessee company incurred expenses towards providing books, uniforms and construction of drinking water facilities etc. to the schools/villages surrounding the factory. All these expenses are allowable u/s 37 of the Act being business expenses incurred wholly and exclusively for the purposes of the business and are allowable, according to the assessee. The business of the assessee is closely associated with the business and is spent towards welfare of the land losers around the village where the factory is situated which would earn sufficient goodwill of the people in the area in which the assessee operates its business.

20. The AO noted that merely incurring expenditure for the people in the area and earning goodwill cannot be treated as business expenditure as it is not related to the assessee's nature of business and has not effected the carrying out of the business of the assessee and does not fall u/s. 37(1) of the Act. For an expenditure to be eligible as an allowance under the residuary provisions, the following conditions should be satisfied:-

(i) The expenditure must not be governed by the provisions of section 30 to 36.
(ii) The expenditure must be have been laid out wholly and exclusively for the purpose of business of the assessee.
(iii) The expenditure must not be personal in nature.
(iv) The expenditure must not be capital in nature.

21. According to the AO, since the assessee failed to substantiate its claim that expenditure was exclusively for the purpose of business or any sort of commercial expediency, he disallowed the amount of Rs.70,52,990. and brought it to tax.

22. On appeal, the CIT(Appeals) held that in the absence of nexus of the expenditure with business exigency, the expenditure cannot be allowed u/s. 37(1) of the Act and rejected the contentions of the assessee.

23. Aggrieved, the assessee is in appeal before us.

24. We have heard the rival submissions and perused the material on record. The ld. AR reiterated the submissions made before the lower authorities and relied on the order of this Tribunal in the case of *M/s. The Sandur Manganese & Iron Ores Ltd. in ITA Nos.1515 to 1517/Bang/2015 dated 06.10.2021* wherein the issue of CSR expenditure was considered elaborately and held as under:-

> "7.5 We heard rival contentions and perused the record. We notice that the facts prevailing in the case of Wipro Ltd are different, which is evidenced by the following observations made by Hon'ble Karnataka High Court:-

"16. It is in this backdrop, we have perused the orders passed by the AOs in this appeal and in ITA Nos.67/07 and 68/07. Though in the present appeal (ITA No.133/07) there is no whisper regarding the exact nature of the expenditure incurred for community development by the assessee, the AO in ITA No.68/08 has made reference to the nature of expenditure incurred under this head by the respondent-assessee. From the order of AO in ITA 68/07, it appears that the contributions were made to various religious functions, charitable institutions, social clubs and certain acts of charity such as donating a borewell to the Municipality, etc. The respondent-assessee has not placed any other materials on record in support of their claim of expenditure over community development, in other two appeals, so to apply the test of commercial expediency.

17. From plain reading of the order of the AO and so also the order of the appellate authority in ITA No.68/07, it appears to us that the expenses contributed for religious functions, charitable institutions, social clubs and charity such as donating a borewell to the municipality, etc. would not fall within the expenditure contemplated under Section 37(1) of the Act. Section 37(1) of the Act states that any expenditure not being expenditure of the nature described in Sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee, laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession". It is not the case of assessee that the expenditure incurred by them is covered by Sections 30 to 36 of the Act, and even if that was so the question of allowing the expenditure under Section 37(1) of the Act would not arise.

18. In our opinion, the expenditure towards the religious funds, charitable institutions, social clubs or for charity do not stand to the test of commercial expediency. In any case, the expenditure under these heads cannot be stated to be

exclusively for the purposes of business of the respondent-assessee and to allow it. That apart, the respondent-assessee has failed to place any material, in support of their case so as to claim the aforementioned expenditure under this head as contemplated by Section 37(1) of the Act as being commercial expediency. In the circumstances, we answer the question in favour of the revenue and against the assessee. The order of the Tribunal is accordingly set aside to this extent."

7.6 In the case of Wipro Ltd (supra), the existence of commercial expediency was not proved. In the instant case, the assessee is engaged in mining business and the BATF was formed to create infrastructure facilities in the Bellary district by the District Administration, which was necessity due to large scale mining operations carried there. The mining companies shall contribute to the BATF, which in turn would carry out various development activities. In this regard, it is relevant to extract relevant minutes of the meeting held on 28-02-2009:-

"2. Addressing the meeting The President and Dy. Commissioner informed that NMDC is paying 18.75 crores for purchasing land to construct houses under Ashraya Scheme to the beneficiaries who are below poverty line……During 2009-10, NMDC will pay Rs.50.00 crores for development programmes. This money will be used to build Community halls, Anganawadi Centres, School and Hospital building in the villages.

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4. The Dy. Commissioner said in his speech that every work taken by the BATF will be transparent as per Karnataka Transference Act. Amount of Rs.10.00 crores which is given by the MML will used for the development of roads. Out of Rs.2.00 crores contributed by obalapuram mines, Rs.1.00 crore by BMM and Rs.1.00 crore by Deccan Mining Co for roads in Bellary Town, R.3.00 crores will be used for

Bellary Rural and Kampli rural Rs.2.00 crores each and for Siruguppa, Hadagali, Hagaribommanahalli and Vijayanagar (Hospet) Assembly constituencies Rs.1.00 crore each. The Amount of Rs.1.40 crores given by SMIORE** will be preserved with us and after discussion it will be used for the development works in Sandur Taluk…..

(** assessee herein)

We notice that the amount has been contributed to BATF by all mining companies as per the direction of district administration. The question whether such contribution is allowable as deduction has been examined by the Hon'ble jurisdictional Karnataka High Court in the case of Kanhaiyalal Dudheria (supra). In the case before the Hon'ble High Court, the assessee was carrying on the business of extraction of iron-ore and also trading in iron-ore. The assessee had incurred expenses of Rs.1,61,30,480/- and Rs.55,90,080/- in FY 2010-11 and 2011-12 towards construction of houses in certain villages as per MOU entered with Government of Karnataka. The assessee's claim of above said expenses were disallowed on the ground that it was not incurred in the course of business but for philanthropic purposes. The Hon'ble High Court, however, held that it is allowable as deduction. The relevant observations made by the jurisdictional High Court are extracted below:-

"8. It is not in dispute that an MOU came to be entered into between assessees and the Government of Karnataka, represented by jurisdictional Deputy Commissioner on 02.07.2010, a copy of which has been made available for our perusal. It would clearly indicate on account of unprecedented floods and abnormal rain which severely ravaged the North Interior Karnataka during last week of September and first week of October, 2009, which claimed more than 226 human lives and loss of nearly 8000 head of cattle, flattened about 5.41 lakhs houses and destroyed standing crops in about 25 lakh hectares of land huge

destruction of infrastructure, Government of Karnataka which was facing an undaunted task of rehabilitating the persons who were in destitute and to restore the normalcy for nearly about 7.2 lakh people and to build 5.41 lakhs houses spread over 12 affected districts, an appeal came to be made by then Hon'ble Chief Minister to all to lend their hands for restoring normalcy.

…….

13. A plain reading of Section 37 would also indicate that emphasis is on the expression "wholly and exclusively for the purposes of the business or profession". These two expressions namely, "wholly" and "exclusively" being adverb, has reference to the object or motive of the act behind the expenditure. If the expenditure so incurred is for promoting the business, it would pass the test for qualifying to be claimed as an expenditure under Section 37 of the Act. What is to be seen in such circumstances is, what is the motive and object in the mind of the two individuals namely, the person who spend and the person who receives the said amount. Thus, the purpose and intent must be the sole purpose of expending the amount as a business expenditure. If the activity be undertaken with the object both of promoting business and also with some other purpose, such expenditure so incurred would not be disqualified from being claimed as a business expenditure, solely on the ground that the activity involved for such expenditure is not directly connected to the business activity. In other words, the issue of commercial expediency would also arise.

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20. In fact, the Hon'ble Apex Court approving the observation of ATHERTON's case - 1926 AC 205 in the matter of EASTERN INVESTMENT LIMITED vs COMMISSIONER OF INCOME TAX reported in (1951) 20 ITR 1, held:

"..a sum of money expended, none of necessity and with a view to a direct and immediate benefit to the trade, but voluntarily on the grounds of commercial expediency, and in order indirectly to facilitate the carrying on of the business, may yet be expended wholly and exclusively for the purposes of the trade", can be adopted as the best interpretation of the crucial words of Section 10(2)(xv). The imprudence of the expenditure and its depressing effect on the taxable profits would not deflect the applicability of the section.

The acid test, "did the expenditure fall on the assessee in this character as trader and was it for the purpose of the business".

21. The co-ordinate Bench in the matter of CIT & ANOTHER vs INFOSYS TECHNOLOGIES LIMITED reported in (2014)360 ITR 174(Kar) while examining the claim of the assessee to treat the expenditure incurred by it for installing the traffic signals as business expenditure under Section 37(1) of the Act, had held " for purpose of business" used in Section 37(1) of the Act should not be limited to meaning of earning profit alone and it includes providing facility to its employees also for the efficient working . It came to be held:

24. As is clear from the case of Mysore Kirloskar Ltd, the expenditure claimed need not be necessarily spent by the assessee. It might be incurred voluntarily and without any necessity, but it must be for promoting the business. The fact that somebody other than the assessee is also benefited by the expenditure should not come in the way of an expenditure being allowed by way of deduction under Section 37(1) of the Act, if it satisfies otherwise the tests laid down by law. Similarly, the words 'for the purpose of business' used in Section 37(1) of the Act, should not be limited to the meaning of earning profit alone. Business expediency or commercial expediency may require providing facilities like schools, hospitals, etc., for the

employees or their children or for the children of the ex-employees. The employees of today may become the ex-employees tomorrow. Any expenditure laid out or expended for their benefit, if it satisfied the other requirements, must be allowed as deduction under Section 37(1) of the Act. Expenditure primarily denotes the idea of spending or paying out or away. It is something which is gone irretrievably, but should not be in respect of an unascertained liability of the future. Expenditure in this sense is equal to disbursement which, to use a homely phrase means something which comes out of the traders pocket."

…….

23. In the matter of SRI VENKATA SATYANARAYANA RICE MILL CONTRACTORS COMPANY vs CIT reported in (1997) 223 ITR 101 (SC), question arose as to whether contribution made to District Welfare Fund maintained by the District Collector would be against public policy or is an expenditure allowable under Section 37(1) of the Act and it came to be held that such contribution is not against public policy and would be allowable under Section 37(1) of the Act. It was also held 'any contribution made by an assessee to a public welfare fund which is directly connected or related with the carrying on the assessee's business or which results in the benefit of the assessee's business has to be regarded as an allowable deduction under Section 37(1)'. In the facts obtained in the said case, it was noticed that assessee was doing business of export of rice and contributing 50 paise per quintal to the district welfare fund maintained by the District Collector, without which contribution, he would not get permit and as such, it came to be held that expenditure so incurred by way of contribution is directly connected with the assessee's carrying on the business. It is further held:

"10. From the abovesaid discussion it follows that any contribution made by an assessee to a public welfare fund which is directly connected or related with the carrying on of

the assessee's business or which results in the benefit to the assessee's business has to be regarded as an allowable deduction under s. 37(1) of the Act. Such a donation, whether voluntary or at the instance of the authorities concerned, when made to a Chief Minister's Drought Relief Fund or a District Welfare Fund established by the District Collector or any business, cannot be regarded as payment opposed to public policy. It is not as if the payment in the present case had been made as an illegal gratification. There is no law which prohibits the making of such a donation. The mere fact that making of a donation for charitable or public cause or in public interest results in the Government giving patronage or benefit can be no ground to deny the assessee a deduction of that amount under s.37(1) of the Act when such payment had been made for the purpose of assessee's business."

……

28. In the light of the analysis of the case laws above referred to, it cannot be gain said by the revenue that contribution made by an assessee to a public welfare cause is not directly connected or related with the carrying on of the assessee's business. As to whether such activity undertaken and discharged by the assessee would benefit to the assessee's business has to be examined in the light of the observations made by us herein above. Tribunal committed a serious error in arriving at a conclusion that MOU entered into between the assessee and the Government of Karnataka is opposed to public policy and void under Section 23 of the Contract Act. In fact, Hon'ble Apex Court in case of SRI VENKATA SATHYA NARAYANA RICE MILL CONTRACTORS COMPANY's case referred to herein supra has held that where a donation, whether voluntary or at the instance of the authorities concerned, when made to a Chief Ministers Drought Relief Fund or a District Welfare Fund established by the District Collector or any other fund for the benefit of the public and with a view to secure benefit

to the assessee's business cannot be regarded as payment opposed to public policy. It came to be further held making of a donation for charitable or public cause or in the public interest results in the Government giving patronage or benefit can be no ground to deny the assessee a deduction of that amount under Section 37(1) of the Act, when such payment has been made for the purposes of assessee's business. In fact, it can be noticed under the MOU in question which came to be entered into by the assessee with Government of Karnataka was on account of the clarion call given by the then Chief Minister of Karnataka in the hour of crisis to all the Philanthropist, industrial and commercial enterprises to extended their whole hearted support and the entire logistic support has been extended by the Government of Karnataka namely, providing land and design of the house to be constructed, approval of layout and to take care of all local problems. In fact, the State Government had also agreed to exempt such of those persons who undertake to execute the work from the purview of sale tax, royalty, entry tax and other related State taxes and is said to have extended to the assessee also. In this background it cannot be construed that MOU entered into between the assessee and the Government of Karnataka is opposed to public policy.

29. In the facts on hand, it requires to be noticed that assessee is carrying of business of iron ore and also trading in iron ore. Thus, day in and day out the assessee would be approaching the appropriate Government and its authorities for grant of permits, licenses and as such the assessee in its wisdom and as prudent business decision has entered into MOU with the Government of Karnataka and incurred the expenditure towards construction of houses for the needy persons, not only as a social responsibility but also keeping in mind the goodwill and benefit it would yield in the long run in earning profit which is the ultimate object of conducting business and as such, expenditure incurred by the assessee would be in the realm of "business expenditure".

Hence, the orders passed by the authorities would not stand the test of law and is liable to be set aside.

30. However, it requires to be noticed that while examining the claim for deduction under Section 37(1) of the Act the assessing officer would not blindly or only on the say of the assessee accept the claim. In other words, assessing officer would be required to scrutinise and examine as to whether said deduction claimed for having incurred the expenditure has been incurred and only on being satisfied that expenditure so incurred is relatable to the work undertaken by the assessee namely, only on nexus being established, assessing officer would be required to allow such expenditure under Section 37(1) of the Act and not otherwise.

31. For the reasons afore stated, we are of the considered view that substantial question law formulated herein is to be answered in the negative i.e., against the revenue and in favour of the assessee."

7.7 The Ld A.R submitted that, in the instant case also, the assessee has contributed funds to BATF at the direction of local administration, which is meant to be used for the benefit of public. As observed in the above said case, the assessee would also be required to approach the appropriate Government and its authorities for grant of permits, licenses. Hence it is a prudent decision of the assessee to oblige to the appeal made by the local administration and incurred the expenses for public purposes. Hence the assessee has incurred expenses not only on account of social responsibility, but also keeping in mind the goodwill and benefit it would yield in the long run in earning profit. Hence this expenditure would be in the realm of "business expenditure". We also notice that the payments made to BATF has been held to be allowable expenditure by co-ordinate benches in the following cases:-

(a) Shri Hirehal Gavippa Rangan Goud vs. ACIT (ITA No.610/Bang/2018 dated 25.11.2020)

(b) Shri Gogga Gurushantiah & Bros (ITA No.504/Bang/2014 dated 29.05.2020)

For the reasons discussed supra, we hold this expenditure is allowable as deduction. Accordingly, we set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete this disallowance. ”

25. In the present case, the assessee has spent the amount towards expenditure for the benefit of public towards education expenses by way of providing books, uniforms and constriction of drinking water facilities etc., to the schools/villages surrounding the factory of children of the villages where the factory of the assessee is situated to earn the goodwill and the long term benefit that may yield in future to earn profits. Therefore, following the coordinate Bench decision in the case of *M/s. The Sandur Manganese & Iron Ores Ltd. (supra)* in identical facts and circumstances, we are of the view that the expenditure incurred is wholly and exclusively for the purpose of business and the same is to be allowed as a deduction u/s. 37 of the Act. Ordered accordingly.

26. The ground regard interest u/s. 234B and 234C of the Act is consequential in nature.

27. In the result, the appeal by the assessee is allowed.

Pronounced in the open court on this 31st day of May, 2022..

Sd/-	Sd/-
(N V VASUDEVAN)	(PADMAVATHY S)
VICE PRESIDENT	ACCOUNTANT MEMBER

Bangalore,
Dated, the 31st May, 2022.

/*Desai S Murthy*/

Copy to:

1. Assessee 2. Respondent 3. CIT 4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.