

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री संजय अरोड़ा, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI SANJAY ARORA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.2185 & 2186/Mds/2017

निर्धारण वर्ष / Assessment Years : 2014-15 & 2013-14

The Assistant Commissioner of  
Income Tax,  
Villupuram Circle,  
Villupuram – 605 602.

v.

M/s Kallakurichi Co-op. Sugar Mills  
Ltd., Unit-II,  
Kachirapalayam, Kallakurichi,  
Villupuram – 606 207.

(अपीलार्थी/Appellant)

PAN : AAAAK 0655 Q

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.2184 & 2187/Mds/2017

निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15

The Assistant Commissioner of  
Income Tax,  
Villupuram Circle,  
Villupuram – 605 602.

v.

M/s Kallakurichi Co-op. Sugar Mills  
Ltd., Unit-1,  
Moongilthurai pattu,  
Villupuram – 605 702.

(अपीलार्थी/Appellant)

PAN : AAAAT 3677 M

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri N. Madhavan, Addl.CIT

प्रत्यर्थी की ओर से/Respondents by : Shri S. Venugopalan, CA  
Shri B. Gowthaman, CA

सुनवाई की तारीख/Date of Hearing : 28.11.2017

घोषणा की तारीख/Date of Pronouncement : 30.11.2017

**आदेश / O R D E R****PER BENCH:**

All the four appeals of the Revenue in respect of two independent assesseees are directed against the respective orders of the Commissioner of Income Tax (Appeals), Puducherry, dated 30.06.2017 for the assessment years 2013-14 and 2014-15. Since common issue arises for consideration in all these appeals, we heard these appeals together and disposing of the same by this common order.

2. The only issue arises for consideration in all these appeals is disallowance made by the Assessing Officer under Section 43B of the Income-tax Act, 1961 (in short 'the Act') in respect of interest payment.

3. We heard Shri N. Madhavan, the Ld. Departmental Representative and Shri S. Venugopalan and Shri B. Gowthaman, the Ld. representatives of the assesseees. The assessee-co-operative societies were allotted working capital by Government of Tamil Nadu. In fact, National Co-operative Development Corporation has sanctioned the loan under Corporation Sponsored Scheme to Government of Tamil Nadu. The payment of interest

was disallowed by the Assessing Officer under Section 43B of the Act. The Assessing Officer was under the impression that the loan was sanctioned by a financial institution, namely, National Co-op. Development Corporation, New Delhi. Referring to a Government Order in RcNo.16890/Cane-1/2001 dated 15.03.2002, the Ld. representatives of the assesseees brought to the notice of the Bench that the loan was sanctioned to Government of Tamil Nadu which is to be utilised as working capital by co-operative sugar mills in the State. Therefore, according to the Ld. representatives, the repayment has to be made to Government of Tamil Nadu by the assesseees and not to National Co-op. Development Corporation.

4. An identical issue came before this Tribunal in the assesseees' own case for assessment years 2008-09, 2009-10, 2010-11 and 2012-13. This Tribunal by placing its reliance on another order of this Tribunal in DCIT v. The Kallakurichi Co-op. Sugar Mills Ltd., Unit-II in I.T.A. No.1079/Mds/2012 dated 14.12.2012, found that the repayment of loan by the assessee to Government of Tamil Nadu would not fall under Section 43B of the Act. Since the facts are identical to that of assessment years 2008-09, 2009-10, 2010-11 and 2012-13 in the assesseees' own case, this

Tribunal is of the considered opinion that the decision of the co-ordinate Bench of this Tribunal dated 28.09.2016 is squarely applicable to the facts of the case. In view of the above, the CIT(Appeals) has rightly followed the order of this Tribunal. Hence, this Tribunal does not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, all the four appeals filed by the Revenue stand dismissed.

Order pronounced on 30<sup>th</sup> November, 2017 at Chennai.

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|------------------------------|-------------------------------|
| sd/-                         | sd/-                          |
| (संजय अरोड़ा)                | (एन.आर.एस. गणेशन)             |
| (Sanjay Arora)               | (N.R.S. Ganesan)              |
| लेखा सदस्य/Accountant Member | न्यायिक सदस्य/Judicial Member |

चेन्नई/Chennai,  
दिनांक/Dated, the 30<sup>th</sup> November, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A), Puducherry
4. Principal CIT, Puducherry
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.