

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH 'A', KOLKATA
Before Shri J. Sudhakar Reddy, AM and Shri S.S. Viswanethra Ravi, JM**

I.T.A. No. 1363/Kol/2016
Assessment Years: 2009-10

M/s. Steel Authority of India Employees Co-operative Credit Society Ltd.....Appellant
12, Charu Chandra Place,
Kolkata - 700 033.
[PAN: AADAS 9699 B]

ITO Ward 28(1) Kolkata.....Respondent
2, Gariahat Road (S) Dakshinapan,
Kolkata.

I.T.A. No. 1444/Kol/2016
Assessment Years: 2009-10 & 2011-12

ACIT Circle 28 Kolkata.....Appellant
2, Gariahat Road (S) Dakshinapan,
Kolkata.

M/s. Steel Authority of India Employees Co-operative Credit Society Ltd..Respondent
12, Charu Chandra Place,
Kolkata - 700 033.
[PAN: AADAS 9699 B]

I.T.A. No. 1824/Kol/2016
Assessment Years: 2009-10

M/s. Steel Authority of India Employees Co-operative Credit Society Ltd.....Appellant
12, Charu Chandra Place,
Kolkata - 700 033.
[PAN: AADAS 9699 B]

JCIT Range 28 Kolkata.....Respondent
2, Gariahat Road (S) Dakshinapan,
Kolkata.

Appearances by:

Shri Ravi Tulsian, FCA appearing on behalf of the Assessee.

Shri Sankar Halder, Addl CIT, Sr. DR appearing on behalf of the Revenue.

Date of concluding the hearing : October 10, 2018

Date of pronouncing the order : October 31, 2018

ORDER

Per S.S. Viswanethra Ravi, JM

All the appeals by the assessee and revenue against the different orders dated 29,12,2011 and 12.12.2013 for Assessment Year 2009-10 and 2011-12.

2. First we shall take up appeal of the assessee in ITA 1363/K/2016 for A.Y. 2009-10.

3. The only issue is to be decided is as to whether the assessee is entitled to deduction on interest expenditure incurred on deposits of its members. The brief facts of the case are that the assessee is a co-operative society formed by the employees of the Steel Authority of India Ltd. (SAIL) and it is engaged in providing credit facilities and loans to its members.

4. Heard both and perused the material available on record. The contention raised by the learned AR is that the issue involved in this appeal is that the CIT(A) allowed interest expenditure only to the extent of borrowed from banks and disallowed the interest expenditure incurred on deposits of members. It is noted from the record that the assessee borrowed loans to an extent of Rs. 112,35,88,259/-, amongst which from banks is 29,56,12,859/- and remaining from deposits of members of Rs. 82,79,75,400/-. The CIT(A) allowed interest expenditure as a deduction only to the extent of loans availed from banks. According to learned AR, the CIT(A)'s presumption that the assessee made investment in shares only from the funds availed from bank but not from members deposits is incorrect. The assessee made investments in shares of Rs. 56,44,52,610/-, whereas availed loans from banks to an extent of Rs. 26,88,39,750/- which clearly shows, the assessee made investments by directing funds from deposits of its members. There is no dispute in respect of assessee made investments to an extent of Rs.

56,44,52,610/- and there is no dispute in respect of the assessee has got funds from its members as deposits.

5. As discussed above, the CIT(A) has given deduction in respect of interest expenditure on loans availed from banks and not from loans availed from its members. The learned AR pointed out that the assessee incurred interest expenditure on deposits received from members of Rs. 8,03,51,867/- and that was not considered by the CIT(A). In view of the same, we hold that the assessee is entitled to claim deduction of interest expenditure which was incurred on deposits from its members. Taking into consideration, the facts and circumstances of the case, we deem it proper to remand the matter to the file of A.O. for calculating aforementioned of interest expenditure incurred on deposits of members. The assessee is directed file break up of interest as incurred towards payment to its members. Therefore, ground no. 1 to 3 raised by the assessee are allowed for statistical purposes. Ground No. 4 is general in nature needs no adjudication and dismissed.

6. Now we shall take up ITA 1444/K/2016 filed by the revenue. This is a cross-appeal filed against the order of CIT(A) for accepting additional evidence in violation of Rule 46A of the Act. Since we decided the issue raised in assessee's appeal in remanding the matter to the file of A.O. Ground raised by the revenue becomes academic needs no adjudication, hence it is dismissed.

7. Now we shall take up ITA 1824/K/2016 for A.Y. 2011-12 by the assessee.

8. We find the issue raised in this appeal is identical and similar to the issue raised in ITA 1363/K/2016. Since the issue raised in ITA 1363/K/2016 was decided to remand the matter to the file of A.O., we adopt the same view in this appeal. Therefore, the matter is remanded to the file of A.O. for his fresh consideration as indicated in aforementioned paragraphs in appeal 1363/K/2016. Thus ground no 2 to 4 are allowed for statistical purposes. Ground No. 1 and 5 are general in nature requires no adjudication, hence it is dismissed.

9. In the result, the appeals of the assessee are partly allowed for statistical purposes and the appeal of the revenue is dismissed.

Order Pronounced in the Open Court on 31 October, 2018.

Sd/-

J. Sudhakar Reddy
ACCOUNTANT MEMBER

Sd/-

S.S. Viswanethra Ravi
JUDICAL MEMBER

Dated: 31/10/2018

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Steel Authority of India Employees Co-operative Credit Society Ltd., 12, Charu Chandra Place, Kolkata – 700 033.
2. ITO, Ward 28(1)/ACIT Circle 28/JCIT Range 28, 2, Gariahat Road (S) Dakshinapan, Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata