

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं  
श्री धुव्वुरु आर.एल. रेड्डी, न्यायिक सदस्य के समक्ष  
**BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER AND  
SHRI DUVVURU R.L.REDDY, JUDICIAL MEMBER**

**Miscellaneous Petition Nos.50 & 51, 52 & 53, 54/Chny/2018**  
(In ITA Nos.1543 & 1544/Chny/2012,  
ITA Nos.1349 & 1350/Chny/2014, ITA No.1657/Chny/2015)  
निर्धारण वर्ष /Assessment Years: 2007-08 to 2011-12

M/s.Jennys Hotel Pvt. Ltd.,  
No.3/14, Mcdonalds Road,  
Contonment, Trichy-620 001.

**Vs.** The ACIT/DCIT,  
Company Circle-I  
Trichy.

**[PAN: AABCJ 1281 G]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

**ITA Nos.1543 & 1544/Chny/2012,**  
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**Vs.** M/s.Jennys Hotel Pvt. Ltd.,  
No.3/14, Mcdonalds Road,  
Contonment, Trichy-620 001.

**[PAN: AABCJ 1281 G]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Assessee by  
Department by

: Mr.B.Ramakrishnan, CA  
: Mr.R.Clement Ramesh,  
Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 02.11.2018

घोषणा की तारीख /Date of Pronouncement

: 08.11.2018

**आदेश / ORDER**

**PER A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER:**

These Miscellaneous Petitions Nos.50 to 54 of 2018 are filed by the assessee seeking rectification of the erroneous computation with respect to amortization of share premium that has crept into the order of the

:- 2 -:

Tribunal due to some errors in the orders of the Revenue. Further the assessee had made the following submissions:

*"It would be pertinent to note that a common issue for all the impugned years is respect of which the revenue had filed its appeal and the petitioner had filed its cross objection is in relation to the deduction with respect to amortization of premium on debentures.*

*In this connection, the details of the issue of 67,500 debentures to M/s.Exim Rajathi Pvt. Ltd. are as follows:*

<b>Particulars</b>	<b>Amount (Rs.)</b>
Issue Price / face value per debenture	1,000
Redemption price per debenture	4,000
Premium per share	3,000

*Therefore, the premium on redemption of 67,500 debentures is as follows:*

<b>Particulars</b>	<b>Amount (Rs.)</b>
Redemption value (67,500 x Rs.4,000/-)	27,00,00,000
Less: Issue value (67,500 x Rs.1,000/-)	6,75,00,000
Premium on redemption	20,25,00,000

*The premium of Rs.20,25,00,000/- has been amortized by the petitioner over a period of debentures i.e. 10 years. Therefore, the petitioner amortized Rs.2,02,50,000/- (20,25,00,000/10 = Rs.2,02,50,000/-) every year for a period of 10 years and claimed the same as deduction.*

*The Hon'ble Bench in deciding this issue in its order dated 18.01.2018 has held as follows (para 12.3 at page 17):*

*"In the case of the assessee, the assessee has received Rs. 6,25,00,000/- from M/s.Exim Rajathi Pvt. Ltd., to acquire 67,500 debentures having face value of Rs.3000/- per debenture to be redeemed after the expiry of 10 years. Therefore the assessee has to re-pay Rs.20,25,00,000/- (67500 x 3000) on redemption of debentures at the end of the 10<sup>th</sup> year. Therefore the interest / financial charge / premium on amortization etc., as the case may be, works out to Rs. 14 crores (20,25,00,000 – 6,25,00,000). This cost has to be spread over for the period of debentures as held by the Hon'ble Apex Court in the case Madras Industrial Corporation Limited cited supra. Hence the allowable deduction for the relevant assessment years including the assessment year 2007-08 would be Rs.1,40,00,000/- (Rs. 1,40,00,000/10). Hence, we hereby direct the Ld.AO to grant the deduction of Rs.1,40,00,000/- in the relevant assessment year towards the interest / financial charge / premium on amortization etc., as the case may be, on debentures redeemable after the period of years."*

*In this connection, the petitioner most humbly submits the following:*

*1. It has been stated that the petitioner received Rs.6,25,00,000/- from M/s.Exim Rajathi Pvt. Ltd. to acquire 67,500 debentures. However, the petitioner had received Rs.6,75,00,000/- as consideration for the 67,500 debentures issued to M/s.Exim Rajathi Pvt. Ltd. (Please refer pages 2 & 3; paras I & 2 of the order of the Commissioner of Income Tax (Appeals) dated 04.05.2012 for the Assessment Year 2007-08).*

*2. The face value of the debentures has been stated as Rs.3,000/- per debenture. However, petitioner had issued the debentures at a face value of Rs.1,000/- and redemption price is Rs.4,000/- per debenture. Thereby, the premium on debenture is Rs.3,000/- per debenture. (Please refer pages 2 & 3; paras I & 2 of the order of the Commissioner of Income Tax (Appeals) dated 04.05.2012 for Assessment Year 2007-08)*

*Therefore, the premium to be amortized would be Rs.2,02,50,000/- as claimed by the petitioner and not Rs.1,40,00,000/- as stated by the Hon'ble Tribunal if:*

- the redemption price of Rs.4,000/- per debenture is considered instead of Rs.3,000/- per debenture, thereby making the redemption value to be Rs.27,00,00,000/- as against Rs.2,02,50,000/-.*
- the issue value is considered to be Rs.6,75,00,000/- (67,500 x Rs.1,000/-) instead of Rs.6,25,00,000/-*

**:- 3 -:**

*While the Hon'ble Tribunal has upheld the method adopted by the petitioner, the difference in the petitioner's claim and the Hon'ble Tribunal's direction has arisen purely because of the variation in the figures adopted by the Hon'ble Bench as mentioned above.*

*Since the above mentioned mistakes are apparent from record, it is most humbly prayed that the Hon'ble Tribunal may be pleased to rectify the same arising from the combined order of the Hon'ble Tribunal for the Assessment Years 2007-08 to 2011-12 dated 18.01.2018 and thereby allow the petitioner's claim of amortization of premium on debentures.*

*The petitioner also prays for a condonation of any delay that may have occurred in the filing of this petition. The petitioner undertakes to produce all the necessary material before the Hon'ble Tribunal for it to decide the matter on merits, if this petition is allowed.*

2. Accordingly the Ld.AR pleaded that the computation mistake in the Order of Tribunal may be rectified. The Ld.DR could not controvert the submissions of the Ld.AR.

3. After hearing both sides, we are of the considered view that the factual aspects with respect to the computation of the share premium pointed out by the assessee are required to be verified by the Ld.AO. Therefore, in the interest of the justice we hereby recall the order of the Tribunal (for the AYS 2007-08 to 2011-12 in ITA Nos.1543 & 1544/Chny/2012, ITA No.1349 & 1350/Chny/2014 and ITA No.1657/Chny/2015) with respect to the computation aspect of the share premium that is to be amortized. Further, we hereby dispose of those appeals of the Revenue with directions to the Ld.AO to verify and rectify the computation of share premium that is required to be amortized in accordance with the method decided by the Tribunal in its earlier order dated 18.01.2018. It is ordered accordingly.

**:- 4 -:**

4. In the result, all the Miscellaneous Petitions filed by the assessee are allowed and all the appeals of the Revenue mentioned herein above are allowed for statistical purposes as indicated herein above.

Order pronounced on the 8<sup>th</sup> day of November, 2018 in Chennai.

**Sd/-**

**(धुव्वुरु आर.एल. रेड्डी)**  
**(DUVVURU R.L.REDDY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**

**(ए. मोहन अलंकामणी)**  
**(A. MOHAN ALANKAMONY)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: November 08, 2018.

TLN

**आदेश की प्रतिलिपि अग्रेषित/Copy to:**

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