

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'B' BENCH, KOLKATA  
(Virtual Court)**

**(Before Sri J. Sudhakar Reddy, Accountant Member & Sri Aby T. Varkey, Judicial Member)**

**I.T.A. No. 1617/Kol/2019  
Assessment Year: 2014-15**

*ACIT, Central Circle-39, Kolkata.....Appellant*

**Vs.**

*M/s. MBL Infrastructure Ltd.....Respondent  
[PAN: AACCM 0564 C]*

**Appearances by:**

*Smt. Ranu Biswas, Addl. CIT, appeared on behalf of the Revenue.*

*Sh. S.K. Tulsiyan, Sr. Adv., appeared on behalf of the Assessee.*

Date of concluding the hearing : September 14<sup>th</sup>, 2020

Date of pronouncing the order : September 23<sup>rd</sup>, 2020

**ORDER**

**Per J. Sudhakar Reddy, AM:**

This appeal filed by the Revenue is directed against the order of the Learned Commissioner of Income Tax (Appeals)-20, Kolkata, [hereinafter the "CIT(A)"], passed u/s. 250(6) of the Income Tax Act, 1961 (the 'Act'), dated 30.04.2019 for the Assessment Year 2014-15.

2. The assessee is a public limited company, carrying on the business of developing, operating and maintaining of the infrastructure etc. It e-filed its return of income on 28.11.2014 declaring total income of ₹50,10,02,480/-. The assessment order was passed u/s 143(3) of the Act on 31.03.2016 determining the total income at ₹57,95,66,872/-. The Id. Pr. CIT-1, Kolkata revised this assessment order dated 31.03.2016 u/s 263 of the Act vide order dated 26.03.2018. He set aside the original assessment order passed u/s 143(3) on 31.03.2016 and directed the AO to determine the quantum of interest income to be taxed in the hands of the assessee. The AO passed an order u/s 143(3) r.w.s. 263 of the Act on 29.06.2018 determining the total income of the assessee at ₹60,85,12,419/- inter alia adding an interest income of ₹2,89,45,547/- to income assessed u/s 143(3) of the Act by the order dated 31.03.2016 of

₹57,95,66,872/-. The assessee's explanation that interest income of ₹1,81,72,110/- was deducted from the interest expense of ₹63,81,79,255/- and that the net interest payable was only reflected and claimed as an expense in the profit and loss account was rejected as not satisfactory. Further the contention that the interest income of ₹1,07,63,580/-, which was received from NHAI-CMU, Mathura was credited in the preceding financial year relevant to the AY 2013-14 as this interest has been earned due to decision from the Dispute Resolution Board, for that particular assessment year 2013-14 and that it was not income of this AY 2014-15 was also rejected. The AO is of the view that this interest in question was taxable only in the AY 2014-15 and not in the AY 2013-14. On the remaining interest amount of ₹16,857/-, the claim that it represents interest from M/s. CESC Limited being interest on electricity and that it was adjusted against the electricity expenses and only net expenses were claimed was also rejected. The assessee carried the matter in appeal. The Id. CIT(A) accepted the submission of the assessee and granted relief. Aggrieved, the Revenue is in appeal before us.

3. After hearing rival contentions we find that the Id. CIT(A) at page 12 held as follows:

*"Firstly, in case of interest income received from M/s. Gokul Sales, the assessee has netted the interest income amounting to Rs. 1,81,72,110/ against the interest expenses of Rs.63,81,79,255/- and net interest expense of Rs.62,00,07,145/- is reflected in the P&L Account. The principle of netting off of interest has been accepted by various tribunal and courts including the Jurisdictional High Court in the case of Wassen Tea Ltd. (374 ITR 6). The assessee is free to net off loan interest income against loan interest expenses. Even if the assessee would have netted loan interest expense against FD interest income, the taxable income would not have changed. Therefore the addition made by the AO on this count is not justified. Hence, the addition made by the Ld. A.O. is deleted.*

*Secondly, in case of interest of Rs. 1,07,56,580/- from NHAI-CMU (Mathura), the assessee has already offered the same for taxation in preceding financial year on accrual basis, which has been established before me. As far as the assessee is concerned the income has crystalised only in the FY 2012-13. Since the amount has already been taxed in A.Y.2013-14, the question of taxing the same amount in A.Y.2014-15 does not arise. Hence, the addition made by the Ld. A.O. is deleted.*

*Finally, the Ld. A.O. added the interest income of Rs. 16,857/- from CESC Limited against security deposit. The contention of the assessee company is the interest income deemed to be received from CESC Limited has been adjusted against the electricity expense payable to CESC Limited. If the interest income is added to the income of the assessee company, subsequently the electricity expenses will also be increased by equivalent amount of Rs.16,857/-, thereby having a nil tax effect for the impugned assessment year. Hence, this addition is also deleted.*

*In view of the above discussion, ground no.2, 3, 4 and 5 are allowed."*

4. We find no infirmity in this factual finding of the Id. CIT(A) and hence we uphold the same. When net expenditure is claimed, it is a matter of arithmetic calculation and the AO has gone wrong on this issue. As far as interest of ₹1,07,56,580/- is concerned, it was offered to tax in the previous assessment year and cannot be brought to tax in this year. This would amount to double taxation.

5. In the result, the appeal of the Revenue is dismissed.

***Kolkata, the 23<sup>rd</sup> September, 2020.***

Sd/-  
[Aby T. Varkey]  
Judicial Member

Dated: 23.09.2020  
*Bidhan*

Sd/-  
[J. Sudhakar Reddy]  
Accountant Member

*Copy of the order forwarded to:*

1. ***ACIT, Central Circle-39, Kolkata.***
2. ***M/s. MBL Infrastructure Ltd., Divine Bliss, 2/3 Judges Court Road, 1<sup>st</sup> Floor, Kolkata-700 027.***
3. CIT(A)-20, Kolkata. (sent through mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy

By order

Assistant Registrar  
ITAT, Kolkata Benches