

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT),  
'C' BENCH MUMBAI**

**BEFORE SHRI M.BALAGANESH, AM**

**&**

**SHRI PAVAN KUMAR GADALE, JM**

**ITA No.6960/Mum/2018  
(Assessment Year :2013-14)**

**ITA No.6961/Mum/2018  
(Assessment Year :2014-15)**

**&**

**ITA No.6962/Mum/2018  
(Assessment Year :2015-16)**

M/s. Orion Travels Pvt. Ltd., 32, Madhuli Apartment Dr. A.B.Road Worli, Mumbai – 400 018	Vs.	DCIT, CC-4(3) Air India Building Nariman Point Mumbai – 400 021
<b>PAN/GIR No. AAACO1591K</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Dharmesh Shah, C.A.
Revenue by	Dr. P. Daniel, Special Counsel for the revenue
<b>Date of Hearing</b>	<b>10/09/2020</b>
<b>Date of Pronouncement</b>	<b>23/09/2020</b>

**आदेश / ORDER**

**PER BENCH:**

These appeals in ITA Nos.6960/Mum/2018, 6961/Mum/2018 & 6962/Mum/2018 for A.Y.2013-14,2014-15 & 2015-16 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-52, Mumbai in

appeal Nos.CIT(A)-52, Mumbai in appeal Nos. CIT(A) No.52/DC, CC 4(3)/IT-658/16-17, CIT(A) No.52/DC, CC 4(3)/IT-659/16-17 & CIT(A) No.52/DC, CC 4(3)/IT-62/17-18 respectively dated 17/09/2018 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 30/10/2015, 29/06/2016 & 14/08/2017 respectively by the Id. Dy. Commissioner of Income Tax, Central Circle-4(3), Central Range-4, Mumbai (hereinafter referred to as Id. AO).

As the grounds raised in assessee appeals are identical, all the appeals are taken up together and disposed off by this common order for the sake of convenience. With the consent of both the parties, the appeal of the assessee for A.Y.2013-14 has been taken as the lead case and the decision rendered thereon would apply with equal force for A.Yrs.2014-15 and 2015-16 also except with variance in figures.

2. The identical issue to be decided in this appeal is as to whether the assessee was eligible for deduction of interest u/s.57 of the Act to the extent of interest income of deposits in the sum of Rs.4,43,743/- under the head 'income from other sources' in the facts and circumstances of the case.

3. We have heard rival submissions and perused the materials available on record. The undisputed facts are that the assessee had shown interest income of Rs.4,43,743/- on term deposits under the head 'income from other sources'. Against interest receipts, the assessee had claimed deduction of interest expenditure u/s.57 of the Act to the tune of Rs.61,54,396/- on the amounts outstanding to related notified broker entities M/s. J.H. Mehta and M/s. Ashwin Mehta. The Id. AO observed

that, out of the same, the assessee had *suo moto* disallowed an amount of Rs.6,62,720/- u/s.14A of the Act and the balance interest payment of Rs.54,91,676/- was claimed as deduction u/s.57 of the Act against the interest income on term deposits. We find that the assessment was completed by the Id. AO disallowing the assessee claim of deduction towards interest u/s.57 of the Act in the sum of Rs.54,91,676/- on the ground that the said liability is only provisional and contingent. We find that the Id. CIT(A) had modified interest disallowance by reducing the said figure in the appellate order. We find that the Id. CIT(A) had restricted allowability of interest expenditure only to the extent of interest receipts of Rs.4,43,743/- under the head 'income from other sources'. Against this direction, the assessee is in appeal before us.

3.1. Before us, both the parties fairly stated that this issue has already been the subject matter of adjudication by this Tribunal in assessee's own case for A.Yrs. 2012-13, 2013-14 and 2015-16 in ITA Nos.6965, 6966 and 6969/Mum/2018 dated 16/03/2020 wherein this Tribunal had restricted allowability of interest expenditure u/s.57 of the Act to the extent of interest income. The relevant portion of the said order is reproduced herein for the sake of convenience:-

*“9. Considered the rival submission and material placed on record, we notice from the records that the assessee has earned interest income from the deposits in bank. These deposits are out of the balance of liquidating certain investments. Since the assessee is under the direct control of Hon'ble Spl. Court and all the issues are pending before the Hon'ble Spl. Court. The plea of the assessee is that there is oral contract between the parties to pay 12% per annum and whatever the interest income earned by the assessee are out of the surplus of the liquidation of certain investment. The investment as well as the fund management are under the supervision of the Hon'ble Spl. Court, assessee has no role to play. From the facts on record, prima facie, it appears that there is a nexus between the borrowed funds on which assessee has paid interest and the investment on which it has earned interest income. Therefore,*

*the assessee should get deduction of interest expenditure to the extent of interest income earned of Rs.3,52,622/-. It is relevant to observe, in assessee's own case in AY 2017-18, the AO himself has allowed claim of deduction of interest expenditure to the extent of interest income earned during that year. In view of the aforesaid, the ground is allowed as indicated above.”*

3.2. Respectfully following the aforesaid decision, we direct the Id. AO to restrict the disallowance of interest to the extent of Rs.4,43,743/- being the interest income received on term deposits. Accordingly, the ground No.1 raised by the assessee is allowed for statistical purposes.

4. As stated earlier, the decision rendered hereinabove for A.Y.2013-14 would apply with equal force for A.Ys.2014-15 and 2015-16 also except with variance in figures. Hence we direct the Id. AO to allow the interest expenditure to the extent of interest receipts of the respective assessment years.

5. The Ground No.2 & 3 raised by the assessee is with regard to charging of interest u/s.234A, 234B & 234C of the Act for all the assessment years which was charged without giving credit for tax deducted at source.

5.1. We have heard the rival submissions and perused the materials available on record. We find that this issue was also the subject matter of adjudication by this Tribunal in the case of DCIT vs. Aatur Holdings Pvt. Ltd., in ITA No.6763/Mum/2018 for A.Y.2014-15 and ITA No.6764/Mum/2018 for A.Y. 2015-16 dated 13/03/2020 wherein it was observed as under:-

*“12. Ground No. 2 & 3 relates to levy of collection of interest under section 234A, 234B & 234C and charging of interest excluding the*

*income which is subject to TDS. We have noted that on similar pound of appeal in assessee's group case in ITA No. 5799/ Mum/2015 in case of Sudhir S. Mehta, the issue was decided that interest levied under section 234A, 234B & 234C be recomputed after excluding the income which is subject to TDS. Therefore, considering the decision in ITA No. 5799/Mum/2015, the Assessing Officer is directed to recompute the interest accordingly. In the result, these grounds of appeal are allowed for statistical purpose.”*

5.2. Respectfully following the said decision, the ground Nos. 2&3 raised by the assessee are allowed for statistical purposes, wherein the Id. AO is directed to recompute the interest in the light of the aforesaid decision.

**6. In the result, all the appeals of the assessee are allowed for statistical purposes.**

Order pronounced on 23/09/2020 by way of proper mentioning in the notice board.

**Sd/-**  
**(PAVAN KUMAR GADALE)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 23/09/2020  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai

