

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM  
(through web-based video conferencing platform)**

**श्री एन के चौधरी, न्यायिक सदस्य एवं श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष  
BEFORE SHRI N.K.CHOUDHRY, HON'BLE JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.521 /Viz/2019 to 523/Viz/2019  
(निर्धारण वर्ष/Assessment Year:2009-10, 2012-13 and 2013-14)**

Asst.Commissioner of Income Tax Vs. M/s Sirius Overseas Private  
Circle-1 Limited  
Eluru D.No.2-152, Rice Mill Street  
Velpur, Tanuku Mandal  
West Godavari District

**[PAN : AAFCS5054C]**

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

**Cross Objection No.142/Viz/2019 to 144/Viz/2019  
(Arising out of I.T.A. No.521/Viz/2019 to 523/Viz/2019)**

M/s Sirius Overseas Private Limited Vs. Asst.Commissioner of  
D.No.2-152, Rice Mill Street Income Tax  
Velpur, Tanuku Mandal Circle-1, Eluru  
West Godavari District

**[PAN : AAFCS5054C]**

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri D.K.Sonowal, CIT(DR)  
प्रत्यर्थी की ओर से / Respondent by : Shri G.V.N.Hari, AR

सुनवाई की तारीख / Date of Hearing : 15.09.2021  
घोषणा की तारीख/Dt. of Pronouncement : 24 .09.2021

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## आदेश /ORDER

### Per Bench :

### Condonation of Delay :

The Department filed appeal No. 521/Viz/2019 with the delay of 186 days and I.T.A. No.522/ Viz/2019 and 523/Viz/2019 with the delay of 111 days along with condonation petition assigning administrative reasons. After hearing both the parties, the delay is condoned and the appeals are admitted for hearing.

The assessee filed cross objections with the delay of 26 days. The assessee explained health reasons for delay in filing the cross objections. After discussing both the parties, the delay in filing the cross objections is condoned.

These appeals are filed by the revenue against the order of the Commissioner of Income Tax (Appeals) [CIT(A)]-2 Guntur in ITA No.56/GNT/CIT(A)-2/2011-12 dated 29.11.2018, CIT(A)-11, Hyderabad in Appeal No.188/2017-18,ACIT,C-1-Rjy/CIT(A)-11/Hyd and CIT(A)-11, Hyderabad Appeal No.189/2017-18/ACIT,C-1-Rjy/CIT(A)-11/Hyd dated 30.10.2018 for the Assessment Year (A.Y.) 2009-10, 2012-13 and 2013-14 respectively. Since the facts in all the appeal are identical, these appeals are

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clubbed, heard together and disposed off in a common order for the sake of convenience as under. The facts of the case are extracted from I.T.A. 521/Viz/2019 for the A.Y.2009-10.

2. Brief facts of the case are that the assessee is engaged in the business of trading, manufacturing, processing of food products and agricultural products. The assessee is also engaged in the export of agri commodities. After procurement of export order from the prospective buyers at a fixed rate, the company will procure goods locally and the shipment of goods will be dispatched to foreign countries. This process from the day of procurement of order to the last day of shipment may take three to four weeks time, hence, to safeguard the profits against the fluctuations in the foreign currency, the company enters into hedging contracts. The company used to enter into forward contracts with the bankers to hedge the currency. These forward contracts are used by exporters to get their exports receivable hedged against adverse currency movements. During the year, the assessee company claimed the loss on forward contracts at Rs.45,69,33,047/- as revenue expenditure under the head 'administrative expenses'. The assessee during the year mainly exported rice, and maize to foreign countries. The assessee company furnished the detailed note on

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losses from Forex Derivatives, copy of export packing credit loan statement by State Bank of India, Velpur. The Assessing Officer (AO) found that the maximum amount of Rs.45.69 crores forex loss was debited to the Profit and loss account on account of Forex loss. The AO viewed that the assessee does not have the crystallized contracts on hand or obligation to export the rice. The company went on entering into the forward contracts for hedging even in the months of January 2008 to March 2008 and beyond upto 31.03.2009 though there was ban imposed by Government of India for export of rice from the month of October 2007. The amounts of derivative contracts entered are for more than the export of agri products. Therefore, the AO viewed that the loss incurred on cancellation of contracts are not related to business and nothing but the losses which are unrealized and present only in the books of accounts and thus the expenditure was not wholly and exclusively laid out for the purpose of the business. The AO further observed that hedging is done by the assessee with banks in violation of RBI norms and the expenditure is not allowable u/s 37(1) of the Act. The AO also viewed that the resultant losses are notional in nature as the rates may change subsequently and could result in loss or profit on the day they convert into rupees. Since the contracts have been entered into against currency fluctuations, crystallisation of liability will not be

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there. The gist of observations of the AO is extracted from the order of the Ld.CIT(A) in para No.2.2 reads as under :

*2.2. During the year, the appellant company claimed loss, on forward contracts/ derivatives at (-) Rs.45,69,33,047/- as revenue expenditure under the head 'Administrative Expenses. The appellant during the year mainly exported rice and maze to foreign countries. The appellant company debited these losses on cancellation of forward contracts which were booked during the previous financial years. The Assessing Officer treating the loss as notional and contingent in nature and disallowed to be set off against taxable income in view of the CBDT's Instruction No33/2010 dated 23.10.31010 and added back to the income returned stating following reasons:*

- a) There is no underlying exposure to the foreign exchange risks. The assessee does not have the crystallized contracts on hand or obligation on hand to export the rice. As seen from the statement of Forex losses debited, the assessee company went on entering into the forward contracts for hedging even in the months of January 2008 to March 2008 and beyond upto 31-03-2009, though the ban was imposed by Government of India for export of rice from the month of October 2007. When the Govt. of India bans the rice exports without giving any specific period during which the ban continues, no trader would accept any export obligation and risk the losses.*
- b) The amounts of derivative contracts entered are far more than the export of agri products. Foreign exchange derivatives transactions were entered into by the assessee company directly with Banks and not through recognized stock exchanges, distinguishing them from being characterized as eligible derivative transactions,*
- c) No actual settlement / contract booked in Profit & Loss A/c., thereby resulting in reduction in Book Profit. The CBDT has instructed that such a notional loss would be contingent in nature and hence, cannot be allowed to set off against taxable income,*
- d) The basis for disallowing forex derivatives loss incurred by the assessee is that these losses are "unrealized" and present only in the books of accounts.*
- e) The assessee has not furnished any details regarding the purpose of entering into the hedging contracts, They entered into forward contracts on anticipated turnovers.*
- f) Though the assessee says it derivative, the assessee himself is not clear about whether it is expenditure or loss. Even if it is considered as*

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*expenditure, the derivative contracts have been entered into by violation of RBI guidelines and norms. Hence, this cannot be allowed as expenditure in view of Sec37 of the I.T. Act.*

*g) The assessee company has not correlated the hedging with the necessary existence of merchandise for sale i.e export obligation. In the absence of such proof, it can be inferred that the hedging of profits by way of forward contracts is not related to the business activity of export. The assessee had resorted to hedging against currency risks. If so happened, the assessee had to pay heavily for under estimating the rupee-power. This wrong estimation of rupee levels forced the assessee to incur huge losses, which in fact, is a marked to market loss (MTM) loss.*

*h) As these contracts have been entered into against currency fluctuations, crystalization of liability will not be there. Hence, the loss earned by the assessee company on forward contract/derivatives is considered as notional loss' as no sale/conclusion/settlement of contract has taken place and the asset continues to be owned by the assessee company and such notional loss will be contingent in nature and cannot be allowed to be set off against taxable income in view of CBDT's Instruction No.03/2010, dated 23-3-2010.*

Thus, the AO held that the losses incurred by the assessee was Market to Market (MTM) losses and the forward contract was not related to the business activity and the losses claimed by the assessee were not crystalised. Therefore, disallowed the loss claimed by the assessee on account of forward contracts and accordingly disallowed the sum of Rs.45,69,33,047/- for the assessment year under consideration. Similarly, the AO disallowed the sum of Rs.4,44,88,000/- for the A.Y.2012-13, Rs.5,43,76,250/- for the A.Y.2013-14 on identical facts.

3. Against the order of the AO, the assessee went on appeal before the CIT(A) and submitted that the company raises sale invoices in foreign

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currency for export sales made to foreign buyers. The company used to enter into forward contracts with their bankers to hedge the currency risk. The purpose of entering into hedge transactions is primarily to provide an insurance medium against risk of unfavourable price fluctuation. Without these contracts of hedge transactions, there would be no effective insurance against the risk of loss in the price fluctuations of the commodity manufactured or merchandise sold. The company enters into foreign contracts with their bankers, i.e. State Bank of India, upon future projections of exports of agri commodities. All the export contracts of the company are in foreign currency i.e. USD. In the year 2007, the USD came under severe pressure against the Indian rupee and forex experts have anticipated the USD to touch Rs.37 in the course of time. If this had actually happened, it would not have been viable to export rice at that time. Suspecting this eventually, the company went ahead by way of forward contract for all their possible USD receivables till March 2009. Since the USD rose substantially by that time, the company had to square off transactions at differential rate of Rs.10 per USD due to ban imposed on rice exports by the government and incurred huge loss of Rs.45.69 cr. Even though the government banned the rice export without giving any specific period, the company has been exporting other agricultural commodities,

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apart from rice. Further, the government stated that the ban on rice is for temporary period and the company expected to lift the ban within six months period. The sole basis for disallowing forex derivatives loss incurred by the assessee was losses under the reason that the losses were unrealized and present only in the books of accounts. The AO held that the forward contract / derivative losses in the P&L account as Marked to Market (MTM) loss. The assessee submitted that the banker on cancellation or maturity of contracts debited the said amount to assessee's export packing credit loan account, which was verified by the AO. Therefore, argued that disallowance of loss of Rs.45.69 crores on the ground that the losses were of MTM is incorrect and the same were crystalised losses, hence requested to delete the addition. The Ld.CIT(A) after going through the submissions of the assessee and the material placed before her, found that the facts of the assessee's case are identical to the case of Shri Ramalingeswara Rice & Oil Mill, Velpur, in I.T.A. No.487/Viz/2012 dated 07.10.2016 of ITAT Visakhapatnam. Therefore, following the order of this Tribunal, the Ld.CIT(A) deleted the addition made on account of disallowance of Forex loss of Rs.45.69 crores.

4. Against which the department is in appeal before this Tribunal. During the appeal hearing, the Ld.DR vehemently supported the order of

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the AO and argued that the losses claimed by the assessee are MTM losses and unrealized, contingent in nature, therefore, requested to set aside the order of the Ld.CIT(A) and allow the appeal of the revenue.

5. On the other hand, the Ld.AR relied on the order of the Ld.CIT(A) and argued that no interference is called for.

6. We have heard both the parties and perused the material placed on record. There is no dispute that the assessee is engaged in the export of agri commodities. The ban was imposed by government of India on export of rice in October, 2007 but not specified the period of ban. With the hope that the ban will be lifted, the company had entered into forward contracts with the bank and incurred losses at the end, since the ban was not lifted. The company had to pay difference to the banks between the expected rate of dollar at the time of booking the contract and actual value of dollar at the time of cancellation of contract and the resultant loss was debited to the account of the assessee, thus the losses were crystalised and not contingent in nature. There is no dispute that the bank has debited the loss and the assessee has incurred the forex loss on forward contracts. Entering into forward contract in foreign exchange is permitted by RBI and the losses were incurred during the course of business of the assessee. The assessee is not in the trade of foreign exchange and is engaged in the

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business of export of agri products and the loss was incurred in the course of business. Therefore, the facts of the assessee's case are identical to the case of Sri Ramalingeswara Rice & Oil Mill of this Tribunal, relied upon by the Ld.CIT(A). This Tribunal in the case of Sri Ramalingeswara Rice & Oil Mill (supra) held that the losses are crystallised and the foreign exchange loss incurred by the assessee is business loss. For the sake of clarity and convenience, we extract relevant part of the order of this Tribunal which reads as under :

*"16. In the present case on hand, the assessee is into the business of export of rice and other commodities. During the previous financial year, it has achieved export turnover of about Rs 80 crores. The forward exchange contracts are entered in the previous financial year, which was not disputed by the A.O. Though there is no export turnover for the current financial year, this is because of a ban imposed by the Government of India, on export of rice and other commodities. As rightly pointed out by the Ld. A.R. for the assessee, the Government of India imposed ban on export of rice for a temporary period. Although the ban was extended for a further period i.e. up to end of financial year 2008-09, the assessee was on the bonafide belief that the ban on export is temporary and Government may review the ban, therefore, it can continue its exports and accordingly it has continued its forward exchange contracts with the banks. Since the ban was continued for the whole financial year and also fact that during the same period, the Indian currency had a dramatic fall in the international market, the assessee has closed forward exchange contracts and suffered loss. The assessee being a prudent business person entered foreign exchange contracts with a hope that the Indian currency may recover and it may recoup the losses. But, ultimately when things are not turned around, it has cancelled forward exchange contracts, which results into loss. Therefore, the loss suffered by the assessee cannot be considered as speculative loss within the meaning of section 43(5) of the Act.*

*17. Coming to the allegations of the A.O. The A.O.'s main allegation is that loss claimed by the assessee is MTM loss or notional loss as the loss is not crystallized in the books of accounts. The A.O. observed that only crystallized loss is allowable as deductions, but not notional loss. As the forward contracts have been entered into against currency fluctuations, there would not be any crystallization of liability. The A.O. further observed that loss incurred by the assessee is of MTM losses, which*

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*is in the nature of notional loss cannot be allowed as deductions. The A.O. referred to AS-30 issued by the ICAI and CBDT circular and observed that MTM loss provided in the books of accounts cannot be allowed. We do not find merits in the findings of the A.O., for the reason that in the present case on hand, the A.O. himself has accepted that the loss claimed by the assessee are on account of cancellation/renewal of forward exchange contracts, which has been debited by the bankers. The assessee has filed details of forward exchange contracts and bank accounts. On perusal of the bank statements, we find that the losses incurred by the assessee is on account of cancellation/renewal of forward exchange contracts, which is crystallized and debited by the bankers. Considering facts and circumstances of this case, we are of the view that foreign exchange loss incurred by the assessee on account of entering into forward contracts with banks for the purpose of hedging loss in connection with its import/export business has to be regarded as business loss. The CIT(A) after considering the relevant explanations rightly deleted the additions made by the A.O. We do not see any reasons to interfere with the order of CIT(A). Hence, we inclined to uphold the CIT(A) order and reject the ground raised by the revenue."*

7. Against the order of this Tribunal, the department went on appeal before the Hon'ble High Court of Telangana, in ITTA 395/2017 the Hon'ble High court of Telangana dismissed the appeal of the revenue by an order dated 10/07/2017. Since the facts identical, respectfully following the view taken by the Tribunal in the case cited supra, we hold that the Ld.CIT(A) has rightly deleted the addition and no interference is called for. Accordingly, appeals of the revenue for the A.Y. 2009-10, 2012-13 and 2013-14 are dismissed on this issue.

8. The next issue for the A.Y. 2013-14 challenged by the assessee in cross objection is waiver of loan by way of One Time Settlement (OTS). During the assessment proceedings, the AO found that the assessee has taken loan from the State Bank of India which became NPA. The banks

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have come forward to settle the dues under one time settlement scheme and settled the dues at Rs.90 crores. The AO called for the details and viewed that the losses were created for the purpose of derivatives being trading activity and the same has to be taken as revenue receipt. The AO quantified the loss created on account of derivative losses at Rs.26,03,66,197/-and the same was treated as revenue receipt and added back to the income.

9. Against the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) confirmed the addition made by the AO. Hence the assessee is in appeal before this Tribunal.

10. During the appeal hearing, the assessee submitted that the sum of Rs.26,03,66,197/-represent the principal amount taken by the assessee for the purpose of carrying on business operations therefore it is capital receipt but not revenue receipt. The Ld.AR argued that it is settled issue that waiver of principal amount is capital receipt, neither can be taxed u/s 28(iv) nor u/s 41(1) of the Act. In the instant case, the AO made the addition without invoking any of the sections of the Act. The Ld.AR relied on the decision of this Tribunal in the case of Vasavi Polymers and also the decision of Sahuwala High Pressure Cylinder (P) Ltd. in I.T.A. No.261/Viz/2019 dated 12.03.2021 and argued that the Ld.CIT(A) erred in

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confirming the addition, therefore, requested to set aside the order of the Ld.CIT(A) and allow the cross objections of the assessee.

11. Per contra, the Ld.DR relied on the order of the Ld.CIT(A) and argued that the assessee has taken loan for forward contracts and derivative transactions on which the assessee incurred the loss during the course of business. Therefore, argued that benefit received on one time settlement required to be treated as business receipt as held by the lower authorities and accordingly submitted that no interference is called for in the order of the Ld.CIT(A) and the same is required to be upheld.

12. We have heard both the parties and perused the material placed on record. There is no dispute that the amount of Rs.26.03 crores represent the principal amount, but not expenditure debited to the Profit & Loss account. The AO is permitted to tax the allowance or the deduction or expenditure incurred in the earlier assessment year and subsequently during any previous year obtained the benefit in cash or in any other manner whatsoever the amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof. The same shall be deemed as income in the year in which the assessee obtained the benefit of remission or cessation of liability under section 41(1) of the Act . In the instant case, the assessee did

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not get any such benefit or the cessation of liability in respect of expenditure or trading liability incurred in the earlier years. The sum of Rs.26.03 crores was not a profit and loss item, for which the assessee claimed any deduction or loss of expenditure. Therefore, there is no case for making the addition u/s 41(1) of the Act. This Tribunal while dealing the issue in the case of Vasavi Polymers on similar facts held that the AO is not permitted to tax the principal amount as income. For the sake of clarity and convenience, we extract relevant part of the order of Vasavi Polymers which reads as under :

*"7. We have heard both the parties and perused the material placed on record. The AO made the addition u/s 41(1) of the Act, but not u/s 28 of the Act. As per section 41(1) of the Act, trading liability or expenditure or the loan which was already claimed as incurred by the assessee and subsequently during any previous year received the benefit in respect of such trading liability by way of remission or cessation of liability is deemed to be profits and gains of the business or profession and accordingly chargeable to tax as the income of the previous year. From section 41(1), it is observed that there must be trading liability or expenditure or loss which was incurred by the assessee in the earlier years and allowed the same as deduction to tax the same u/s 41(1). The twin conditions required to be satisfied for taxing the benefit received by the assessee. i.e., the expenditure should be Revenue expenditure or the loss incurred and the same ought to have been allowed as deduction. The benefit received by the assessee should be relating to such expenditure which was claimed and allowed in the earlier years. In the instant case, the trading liability or the expenditure or deduction was claimed by the assessee in respect of interest paid on the OCC loan. In respect of principal amount, though the assessee has gained the benefit by way of one time settlement the same cannot be brought to tax u/s 41(1) because the OCC loan represents the principal which was never claimed as expenditure. The AO also did not make out a case that the principal amount was debited to the Profit & Loss account in the earlier years. Therefore there is no case for making addition u/s 41(1) in respect of the principal amount. The Hon'ble Supreme Court in the case of CIT Vs. Mahindra & Mahindra Ltd considered the similar issue and held as under :*

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*“15. On a perusal of the said provision, it is evident that it is a sine qua non that there should be an allowance or deduction claimed by the assessee in any assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee. Then, subsequently, during any previous year, if the creditor remits or waives any such liability, then the assessee is liable to pay tax under Section 41 of the IT Act. The objective behind this Section is simple. It is made to ensure that the assessee does not get away with a double benefit once by way of deduction and another by not being taxed on the benefit received by him in the later year with reference to deduction allowed earlier in case of remission of such liability. It is undisputed fact that the Respondent had been paying interest at 6 % per annum to the KJC as per the contract but the assessee never claimed deduction for payment of interest under Section 36 (1) (iii) of the IT Act. In the case at hand, learned CIT (A) relied upon Section 41 (1) of the IT Act and held that the Respondent had received amortization benefit. Amortization is an accounting term that refers to the process of allocating the cost of an asset over a period of time, hence, it is nothing else than depreciation. Depreciation is a reduction in the value of an asset over time, in particular, to wear and tear. Therefore, the deduction claimed by the Respondent in previous assessment years was due to the depreciation of the machine and not on the interest paid by it.*

*16. Moreover, the purchase effected from the Kaiser Jeep Corporation is in respect of plant, machinery and tooling equipments which are capital assets of the Respondent. It is important to note that the said purchase amount had not been debited to the trading account or to the profit or loss account in any of the assessment years. Here, we deem it proper to mention that there is difference between 'trading liability' and 'other liability'. Section 41 (1) of the IT Act particularly deals with the remission of trading liability. Whereas in the instant case, waiver of loan amounts to cessation of liability other than trading liability. Hence, we find no force in the argument of the Revenue that the case of the Respondent would fall under Section 41 (1) of the IT Act.*

*17. To sum up, we are not inclined to interfere with the judgment and order passed by the High court in view of the following reasons:*

- (a) Section 28(iv) of the IT Act does not apply on the present case since the receipts of Rs 57,74,064/- are in the nature of cash or money.*
- (b) Section 41(1) of the IT Act does not apply since waiver of loan does not amount to cessation of trading liability. It is a matter of record that the Respondent has not claimed any deduction under Section 36 (1) (iii) of the IT Act qua the payment of interest in any previous year.*

*The Hon'ble Supreme Court also considered the issue with regard to taxing the remission of liability u/s 28(iv) and decided the issue against the revenue and*

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*in favour of the assessee, since, the receipt was in the nature of cash or money. The Hon'ble Supreme Court held that section 28(iv) of the Act has no application since the receipt was in the nature of cash or money. In the instant case what the assessee has received was remission of liability which was in the form of cash or money and the difference amount of principal which was settled by onetime payment was never debited to Profit & Loss account. Therefore, the decision of Hon'ble Supreme Court is squarely applicable in the instant case. The Ld.DR relied on the decision of Hon'ble Delhi High Court in the case of Rollatainers Ltd. Vs. Commissioner of Income Tax [2011] 15 taxmann.com 111 (Delhi) and the decision of Hon'ble High Court of Madras in the case of Commissioner of Income Tax, Chennai Vs. Ramaniyam Homes (P.) Ltd., the judgements were delivered prior to the judgement of Hon'ble Supreme Court in the case of Mahindra and Mahindra supra and the Hon'ble High Courts have no occasion to consider the decision of Hon'ble Supreme Court. Therefore, we do not find any reason to interfere with the order of the Ld.CIT(A) and accordingly, we uphold the same. The appeal of the revenue is dismissed.*

12.1 In the instant case there is no dispute that the benefit by the assessee was in respect of Principal amount but not the expenditure debited to the Profit and loss account and the facts are identical to the case supra. The department did not bring any other case to controvert the case cited above. Therefore, respectfully following the view taken by this Tribunal in the case of Vasavi Polymers, we hold that the Ld.CIT(A) erred in confirming the addition, therefore, we set aside the order of the Ld.CIT(A) and delete the addition made by the AO. The cross objection of the assessee on this ground is allowed.

13. For the A.Y. 2009-10, the assessee filed cross objections supporting the order of the Ld.CIT(A). Since the appeal of the revenue is dismissed, cross objections become infructuous, hence dismissed.

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14. For the A.Y. 2012-13, the assessee filed cross objections challenging the confirmation of additions of Rs.50,000/- in respect of donation and for deletion of addition of Rs.10,45,500/- in respect of loading and unloading charges in Ground No.2 and 3. During the appeal hearing, the Ld.AR has not pressed Ground No.2 and 3. Therefore, ground No.2 and 3 are dismissed.

14.1 Ground No.1 is related to the addition on account of loss incurred on cancellation of forward contracts, which is in support of the order of the Ld.CIT(A). Since the revenue's appeal is dismissed, the cross objections filed by the assessee becomes infructuous and dismissed.

15. For the A.Y. 2013-14, the assessee filed 4 grounds in cross objections. Ground No.4 is general in nature which does not require specific adjudication.

15.1. Ground No.3 is related to the addition of Rs.19,00,000/- on account of loading and unloading charges, which was not pressed by the Ld.AR during the hearing, therefore, ground No.3 is dismissed as not pressed.

15.2. Ground No.2 is related to the addition in respect of cancellation of forward contracts, supporting the order of the Ld.CIT(A). Since the revenue's appeal is dismissed, the cross objections become infructuous,

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hence, dismissed. In the result, cross objections of the assessee for the A.Y..2013-14 are partly allowed.

16. In the result, appeals of the revenue are dismissed. Cross Objections for the A.Y.2009-10, 12-13 are dismissed and for the A.Y.2013-14 are partly allowed.

Order pronounced in the open court on 24<sup>th</sup> September, 2021.

Sd/-  
(एन के चौधरी)  
(N.K.CHOUDHRY)  
न्यायिक सदस्य/ JUDICIAL MEMBER  
Dated : 24 .09.2021  
L.Rama, SPS

Sd/-  
(डि.एस.सुन्दर सिंह)  
(D.S.SUNDER SINGH)  
लेखा सदस्य/ACCOUNTANT MEMBER

**ITA No.521/Viz/2019 to 524/Viz/2019 and CO No.142 to 144/Viz/2019  
A.Y.2009-10, 2012-13 and 2013-14  
M/s Sirius Overseas Pvt. Ltd., Velpur**

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. राजस्व/The Revenue –Asst.Commissioner of Income Tax, Circle-1, Eluru
2. निर्धारिती/ The Assessee - M/s Sirius Overseas Private Limited, D.No.2-152, Rice Mill Street, Velpur, Tanuku Mandal, West Godavari District
3. The Pr.Commissioner of Income Tax, Rajahmundry
4. The Commissioner of Income Tax (Appeals)-11, Hyderabad
5. The Commissioner of Income Tax (Appeals)-2, Guntur
6. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 7.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary  
ITAT, Visakhapatnam