

आयकर अपीलीय अधिकरण "A" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
BEFORE SRI MAHAVIR SINGH, VP AND SRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No. 1510/Mum/2020
(निर्धारण वर्ष / Assessment Year 2013-14)

Pr. CIT-9, DCIT Cir. 9(1)(2), Room No.210, 2 nd Floor, Aayakar Bhavan, Churchgate, Mumbai-400 020	बनाम/ Vs.	M/s Anchor Daewoo Industries Ltd. 13 th Floor, Peninsula Business Park, Tower-B, Senapati Bapat Marg, Lower Prel (West), Mumbai-400 013
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AAACD3710B		
अपीलार्थी की ओर से/ Appellant by	:	Shri Rajendra Kumar, DR
प्रत्यर्थी की ओर से/ Respondent by	:	S/shri Nitesh Joshi & Vipul Chheda, ARs'

सुनवाई की तारीख / Date of hearing:	16.09.2021
घोषणा की तारीख / Date of pronouncement:	16.09.2021

आदेश / ORDER

महावीर सिंह, उपाध्यक्ष के द्वारा /

PER MAHAVIR SINGH, VP:

This appeal of the assessee is arising out of order of the Commissioner of Income Tax (Appeals)-16, Mumbai [in short CIT(A)], in Appeal Nos. CIT(A)-16/ITO-9(3)(2)/IT-11618/2015-16 vide dated 24.12.2019. The Assessment was framed by the Dy.

Commissioner of Income Tax, 9(1)(2), Mumbai (in short DCIT / AO) for the A.Y. 2013-14 vide order dated 29.02.2016 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. The only issue in this appeal of Revenue is against the order of CIT(A) deleting the addition on account of interest under section 234B, 234C and 234D of the Act while computing book profit under section 115JB of the Act. For this, Revenue has raised the following two grounds:-

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is right in deleting the addition on account of interest under section 234B, 234C and 234D to the tune of ₹3,43,86,460/- for determination of book profit u/s. 115JB of the Act without appreciating of the I.T. Act without appreciating the clause (ii) to Explanation 2 of the Act read with clause (a) of the Explanation 1 of the Act, which clearly states 'Income Tax' shall include any interest charged under this Act?

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has rightly held that the term "Income Tax paid / payable" does not includes interest thereon?"

3. We have heard the rival contentions and gone through the facts and circumstances of the case. The brief facts are that the Assessing Officer while framing the assessment under section 143(3) of the Act, order dated 29.02.2016, determined the total loss of the assessee under normal provisions at ₹3,76,31,135/-. The relevant computation of total income of the assessee under normal provisions as under: -

I	Income from House Property (as per CoI)	4,20,000
II	Business Loss (As per CoI)	(7,24,37,595)
Add:	Interest u/s 234/C/D (para 5.4)	3,43,86,460
Total Income		(3,76,31,135)

4. The Assessing Officer also computed the total income i.e. MAT calculation under section 115JB of the Act and the relevant computation read as under:-

MAT Calculation u/s. 115JB of the Act

	Particulars	Rs.
	Book Profit as per computation	(7,05,33,557)
Add:	Interest u/s 234B/C/D (para 6)	3,43,86,460
	Book Profit u/s 115JB	(3,61,47,097)

5. According to Assessing Officer, since the book profit is negative figure, the provisions of MAT will not apply in this case and accordingly the income was assessed at a total loss of ₹3,76,31,135/-. Aggrieved, against the addition of interest under section 234B, 234C and 234D amounting to ₹3,48,86,460/- and carried forward of business loss to the extent of ₹3,61,47,097/-, assessee preferred the appeal before Commissioner of Income Tax

(Appeals). The Commissioner of Income Tax (Appeals) deleted the addition vide Para 6.2 and 6.3 as under: -

"6.2.3 I had considered the contention raised by the Assessing Officer as well as by the appellant. As per the provision of section 115JB of the Income Tax Act, 1961 only specific amount can be added back/ deducted from the book profit. As per clause (a) to Explanation 1 of section 115JB of the Income Tax Act, 1961 the amount of income tax paid or payable and provision thereof, can only be added to the book profit of the appellant. From the foregoing paras it is clear that the interest paid under section 234B, 234C and 234D of the Income Tax, 1961 are not forming part of the Tax amount as per section 2(43) of the Income Tax Act, 1961.

6.2.4 In view of the above, the appellant had correctly not added the interest component to the book profit for determining adjustable book profit as per section 115Jb of the Income Tax Act, 1961 without adding the interest component. Hence, this ground of appeal is allowed."

Aggrieved, now Revenue is in appeal before Tribunal.

6. We noted that this is only academic addition because there is no computation made by Assessing Officer or no income or loss is



assessed while computing book profit under section 115JB of the Act. Hence, this issue is academic and CIT(A) has rightly deleted the addition. We confirm the order of CIT(A) and the appeal of Revenue is dismissed.

7. In the Result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 16.09.2021.

Sd/-

(मनोज कुमार अग्रवाल / MANOJ KUMAR AGGARWAL)
(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)
(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 16.09.2021

सुदीप सरकार, व. निजी सचिव/ Sudip Sarkar, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील)/ The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि आयकर, अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप सहायक/पंजीकार/Asstt. Registrar/ व. निजी सचिव/Sr. PS/
आयकर अपीलीय अधिकरणमुंबई, / ITAT, Mumbai