

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 4661/Del/2018 : Asstt. Year : 2010-11

ITA No. 4520/Del/2018 : Asstt. Year : 2012-13

ITA No. 4521/Del/2018 : Asstt. Year : 2013-14

Income Tax Officer, Ward-25(2), New Delhi-110002	Vs	Telespice Wireless Pvt. Ltd., A-4, Hiramal Apartments, 44, Amrita Shergil Marg, New Delhi-110003
(APPELLANT)		(RESPONDENT)
PAN No. AACCT8354P		

Assessee by : Sh. Ashwani Kumar, CA

Revenue by : Sh. H. K. Choudhary, CIT DR

Date of Hearing: 21.10.2021

Date of Pronouncement: 21.10.2021

ORDER

Per Bench:

The present appeals have been filed by the Revenue against the order of Id. CIT(A)-42, New Delhi dated 15.12.2017, order of Id. CIT(A)-32, New Delhi dated 23.11.2017 and the order of Id. CIT(A)-33, New Delhi dated 15.12.2017 .

2. Since, the issues involved in all these appeals are identical, they were heard together and being adjudicated by a common order.

3. In ITA No. 4520/Del/2018, following grounds have been raised by the Revenue:

"1. That the Ld. CIT(A) has erred in law as well as on the facts and the circumstances of the case in deleting the addition of Rs.127,31,43,600/- made by the AO on account of interest free loans amounting Rs. 14,14,60,40,000/- given to various parties by merely relying on decision of Hon'ble Supreme Court in the case of CIT Vs. Daulat Ram Rawat Mall 1973 87 ITR 349 without appreciating the facts of present case as in ITA No. 562 of 2008 dated 01.06.2012 in VIT V. Sungero Ltd., the Hon'ble High Court of Delhi after discussing the aforesaid decision of Daulat Ram Rawat Mull (supra), Opined that the "order must be read as a whole to see whether test of perversity is satisfied."

4. Heard the arguments of both the parties and perused the material available on record.

5. The solitary ground taken up by the Revenue is against the order of the Id. CIT(A) deleting the notional interest determined by the Assessing Officer.

6. The assessee company was incorporated with the object of providing services namely basic telephone services, cellular/mobile telephone services, internet broadband services and other value added services. The assessee filed return of income on 29.09.2012 showing current year loss of Rs.46,169/-.

7. The Assessing Officer made addition of Rs.127,30,97,431/- on account of imputed interest @9% per annum on the outstanding amount of loan/advances to various parties of Rs.1414.60 Crores as per table below:

S. No.	Name and address of the party	Amount (In Rs.)
1.	M/s Drive Development (P) Ltd.	4,50,000/-
2.	M/s new Idea Development Pvt. Ltd.	14,142,250,000/-
3.	M/s Majestic Infracon (P) Ltd. (formally known as DB Infracon Pvt. Ltd.)	33,40,000/-
	Total	14,14,60,40,000/-

8. The undisputed facts of the case are that the assessee had own funds in form of share capital, reserves & surplus to the tune of Rs.1414.60 Crores in which the assessee has not incurred any interest expenses and loans were also given in the ordinary course of business without interest. Further, the assessee has not claimed any interest in the P&L account. We have gone through the judgments referred by the Revenue and find that they are not even remotely related to the facts of the instant case. In the absence of any provision of the Income Tax Act to determine the notional interest received /receivable on presumptive basis, we decline to interfere with the order of the Id. CIT(A).

9. In the result, all the appeals of the Revenue are dismissed. Order Pronounced in the Open Court on 21/10/2021.

Sd/-

(Amit Shukla)
Judicial Member

Dated: 21/10/2021

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR