

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI
BEFORE SHRI RAJESH KUMAR, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No. 6653/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2014-15)

Ruchi Bio Fuels 408, Tulsiani Chambers, Nariman Point, Mumbai- 400021.	बनाम/ Vs.	DCIT-3(3)(1) 6 th Floor, Aaykar Bhavan, Churchgate, Mumbai- 400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AADCR8861N		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri Ajay R. Singh
Revenue by:	Ms. Neha Thakur (Sr. AR)

सुनवाई की तारीख / Date of Hearing: 09/11/2021
घोषणा की तारीख /Date of Pronouncement: 05/01/2022

आदेश / O R D E R

PER AMARJIT SINGH, JM:

The assessee has filed the present appeal against the order dated 16.07.2019 passed by the Commissioner of Income Tax (Appeals) -08, Mumbai [hereinafter referred to as the “CIT(A)”] relevant to the A.Y.2014-15.

2. The assessee has raised the following grounds: -

“1. On the facts and in the circumstances of the case, the learned CIT(A) erred in confirming disallowance of interest expenditure of Rs.16,03,094/- as claimed u/s 36(1)(iii) of the Act, ignoring the fact that the funds on which interest paid was utilized wholly for the purpose of business.



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2. *On the facts and in the circumstances of the case, the learned CIT(A) erred in dismissing the appeal relating to initiation of penalty proceedings u/s 271(1)(c).*

3. *The appellant prays that order of CIT(A) on the above grounds be as set aside and that appeal of the appellant against order of ld. AO be allowed.*

4. *The appellant craves leave to add or amend, alter or vary the grounds of appeal at the time of or before the date of the hearing.”*

3. The brief facts of the case are that the assessee filed its return of income on 19.09.2014 declaring loss of Rs.3,68,24,031/- for the A.Y.2014-15 and book loss u/s 115JB of Rs.3,61,79,760/-. Thereafter, the assessee also filed the revised return of income declaring loss of Rs.3,68,24,031/- and book profit loss of Rs.3,61,79,760/-. The return was selected for scrutiny and notices u/s 143(2) & 142(1) of the Act were issued and served upon the assessee. The assessee company is engaged in the business of manufacturing & trading of Tree Born Oil Seed, Bio-Fuel and De-oiled Cake. On verification, it was found that the assessee has taken the loan to the tune of Rs.18,60,85,959/- and in the statement of profit & loss account, the assessee has debited a sum of Rs.2,01,38,474/- as finance cost. The details speaks that the assessee took the loan from M/s. Ruchi Soya Industries Ltd., and paid interest of Rs.1,81,17,679/- @ 13%. The financial statements also speaks that the assessee has given loans and advances to the tune of Rs.1,23,31,493/-. The AO called for the details from the assessee and the assessee furnished the details submitting that the assessee company has given loan of Rs.1,22,91,535/- to M/s. Uttaranchal Bio Diesel Ltd., and Rs.39,958/- to M/s. Uttaranchal Bio Fuels Ltd. Both these companies were



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related to the assessee and the assessee did not charge any interest on these loans. The contentions of the assessee was that the assessee gave the said loans for business purposes and out of commercial expediency and hence, the interest is allowable u/s 36(1)(iii) of the Act. The submission of the assessee was declined and interest @ 13% of Rs.1,23,31,493/- thereby disallowing 16,03,094/- and adding the same to the income of the assessee. After some more additions, the income of the assessee was assessed at Rs.3,47,37,291/- under normal provisions and Rs.3,56,96,114/- u/s 115JB of the Act. Feeling aggrieved, the assessee filed an appeal before the CIT(A) who dismissed the appeal of the assessee, therefore, the assessee has filed the present appeal before us.

ISSUE NO.1

4. Under this issue the assessee has challenged the disallowance of interest of Rs.16,03,094/- u/s 36(1)(iii) of the Act. At the very outset, the Ld. Representative of the assessee has argued that the assessee has given the loans to its sister concerns/subsidiaries out of business consideration and therefore, did not charge the interest and therefore, no interest is disallowable in view of the provisions u/s 36(1)(iii) of the Act. In support of this contention, the Ld. Representative of the assessee has placed reliance upon the decision of the Hon'ble Bombay High Court in the case of **PCIT Vs. Sesa Resources Ltd. (2018) 404 ITR 707 (Bom)**. However, on the other hand, the Ld. Representative of the Department has refuted the said contentions of the ld AR. The claim of the assessee is that the assessee has given the loans to its sister concerns/subsidiaries and therefore, no interest is liable to be disallowed in view of the Section 36(1)(iii) of the Act and in view of the decision in the case of **PCIT Vs. Sesa Resources Ltd.**



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(supra). The assessee has given the loan of Rs.1,22,91,535/- to M/s. Uttaranchal Bio Diesel Ltd., and Rs.39,958/- to M/s. Uttaranchal Bio Fuels Ltd. After considering the facts on records and legal position , we set aside the finding of the CIT(A) on this issue and direct the AO to delete the disallowance. Accordingly, this issue is decided in favour of the assessee.

ISSUE NO.2

5. Issue no.2 is pre-mature in nature, therefore, this issue is nowhere required for adjudication.

ISSUE NO.3

6. Issue no.3 is formal in nature which nowhere required any adjudication.

7. In the result, the appeal filed by the assessee is hereby allowed.

Order pronounced in the open court on 05/01/2022

Sd/-

(RAJESH KUMAR)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 05/01/2022

Vijay Pal Singh/Sr. P.S.

Sd/-

(AMARJIT SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER

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



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6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

(Assistant Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai