

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

BEFORE SHRI PRASHANT MAHARISHI, AM
And
SHRI KULDIP SINGH, JM

ITA No. 7550/Mum/2016 (Assessment Year 2012-13)

ITA No. 2640 /Mum/2019 (Assessment Year 2013-14)

The Dy. Commissioner of Income-Tax 1(3)(2), Room No. 540, 5 th Floor, Aayakar Bhawan, M.K. Road, Mumbai-400 020	Vs.	M/s Tata Motors Finance Ltd. 3 rd Floor, Nanavati Mahalaya, 18, Homi Mody Street, Fort, Mumbai-400 001
(Appellant)		(Respondent)
PAN No. AACCT4644A		

ITA No. 244/Mum/2019 (Assessment Year 2013-14)

M/s Tata Motors Finance Ltd. 3 rd Floor, Nanavati Mahalaya, 18, Homi Mody Street, Fort, Mumbai-400 001	Vs.	The Dy. Commissioner of Income-Tax 1(3)(2), Room No. 540, 5 th Floor, Aayakar Bhawan, M.K. Road, Mumbai-400 020
(Appellant)		(Respondent)

Assessee represented by	:	Shri Om Prakash Singh, DR
Department represented by	:	Shri Rajan Vora, AR

Date of hearing:	20.01.2022
Date of pronouncement :	13.04.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. These are the three appeals pertaining to M/s Tata Motors Finance Ltd. (assessee) for two AYs i.e. 2012-13 by Revenue and for AY 2013-14 cross appeals, involving

common issues, therefore, and both the parties were heard together and appeals are disposed by this common order.

**ITA No 7550/M/2016
AY 2012-13
DCIT V Tata Motors Finance Limited**

02. ITA No. 7550/Mum/2016 is filed by the Dy. Commissioner of Income-tax dated 01.03.2002, Mumbai, (the learned Assessing Officer) against the order passed by the CIT(A)-2, Mumbai [the learned CIT(A)] dated 22.08.2016 for AY 2012-13.
03. The learned Assessing Officer has raised following five grounds of appeal:

"1. Whether, on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in allowing the claim of the assessee of Rs.14,18,22,496/- that on booking of contracts for financing of vehicles purchase, DMA commission incurred during the year be allowed in entirety in computing total income of the assessee, and thereby overruling the A.O. who held that the assessee would be entitled only to the lower amount actually debited by in its P&L account in accordance with its accounting policy of deferring the DMA Commission incurred, in its books over the period of the contract?"

2. "Whether, on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in appreciating the fact that allowing the entire expenditure in one

year may given a distorted picture of the accounts of the particular year, where the expenses can be spread over the years as held by Hon'ble Supreme Court in the case of Madras Industrial Corporation (225 ITR 802)?"

3. *"Whether, on the facts and circumstances of the case and in Law, the Ld. CIT(A) has erred in admitting the additional ground for deduction of Rs.9,97,01,832/- towards Bad Debts when this ground was not raised during assessment proceedings and was not connected with any other grounds on which appeal was filed with CIT(A) against the assessment order?"*

4. *"Whether, on the facts and circumstances of the case and in Law, the Ld. CIT(A) erred in admitting the additional ground as above and also admitting additional evidence in the form of agreement entered into by the assessee with Tata Motors Ltd. in respect of loan repayment to the assessee, to decide the issue of deduction of Doubtful Debts in violation of Rule 46A?"*

5. *"Whether on the facts and circumstances of the case and in Law, the Ld. CIT(A) erred in allowing deduction of Rs.9,97,01,832/- treating the same as less of Bad Debts claimed by assessee on account of Delinquency Support when the same was shown in return as not allowable?" The appellant craves leave to add to, amend or withdraw the aforesaid ground of appeal."*

04. Brief facts of the case shows that assessee is a non-deposit taking non-banking financial company registered with the Reserve Bank of India. It is engaged in financing of Tata Motors vehicles manufactured by Tata Motors Limited. It is formed to carry on the business of financing, refinancing, and financial services of all kinds and description of vehicles. It filed its return of income on 28.09.2012 declaring total income of ₹269,74,58,230/- which was further revised on 28th March 2014. Return was taken up for scrutiny. Learned Assessing Officer on scrutiny made the assessment order under section 143(3) of the income-tax Act, 1961 (hereinafter referred to as 'Act') on 27th February, 2015, wherein income as per normal computation was determined at Rs. 283,92,90,541/- and book profit was determined of Rs. 31,51,60,500/-. The learned Assessing Officer disallowed the commission claimed on Direct Marketing Agents (in short DMA) amounting to Rs. 14,18,22,496/-. The reason for disallowance was the identical disallowance made in the preceding year. During the year, the assessee has debited the DMA commission of Rs. 28,64,77,259/- as amortized amount. In the computation of the total income, the assessee disallowed the above amortized amount debited in the profit and loss account of Rs. 28,64,77,259/- but claimed entire Direct Marketing Agents commission incurred during the year of Rs. 42,82,99,755/-. The reason for claiming the above amount was that according to the assessee the entire commission income of

the agents is payable on sanction of the loan amount therefore the entire commission income has been incurred in that year and is allowable under section 37(1) of the Act. The assessee says that it is maintaining its books of account on mercantile basis and the practice is regularly followed by the assessee. The assessee also referred to its accounting policy where the commission paid to direct selling agents for series of loan contracts is amortized over the term of the contract in the ratio of interest earned and thereafter commission is paid on achievement of targets receivable over the period of 36 months since the most of the contracts are entered into for that duration. The Assessing Officer allowed the sum of Rs. 28,64,77,259/- and disallowed Rs. 42,82,99,7555/- and this resulting into net disallowance of Rs. 14,88,22,496/-.

05. This disallowance was contested before the learned CIT (A), who allowed the claim of the assessee based on his own decision in case of the assessee for earlier years and following the decision of Hon'ble Delhi High Court in the case of CITI Financial Consumer Limited as well as decision of the Special Bench of ITAT in CIT Vs. Asima Synthetics Limited. This disallowance deleted by the learned CIT(A) is agitated by the Assessing Officer as per ground No.1 and 2 of the appeal.
06. The learned Departmental Representative supported the orders of the learned Assessing Officer. He further

referred to the decision of Hon'ble Supreme Court in case of Taparia Tools Limited [372 ITR 605] .

07. The learned Authorized Representative submitted that the issue is squarely covered in favour of the assessee in its own case by the decision of the co-ordinate Bench for Assessment Years 2007-08, 2008-09 and 2011-12 and therefore, the ground raised by the learned Assessing Officer deserved to be dismissed.
08. We have carefully considered the rival contentions and perused the orders of the lower authorities. We find that identical issue arose in the case of the assessee for AY 2007-08, 2008-09 in ITAs no. 3476, 4353, 3119, 4860/Mum/2013 and 1226/Mum/2016 dated 19th September, 2018, where the claim of the assessee on total DMA commission accrued during the year based on the sanction of the loan amount was allowed as deduction of expenses incurred during the year as under :-

“8. We have considered rival contentions and found that Direct Marketing Agent's Commission was allowed by CIT(A) after following the decision of Delhi High Court in the case of Citi Financial Consumer Finance Ltd., and ITAT Ahmedabad Special Bench in the case of Ashima Syntex 117 ITD 1. From the record we found that when the Assessee finalizes a vehicle financing

proposal received by it from a customer through a Direct Marketing Agent (DMA), it provides and pays to the DMA, the commission due to him for introducing the customer to the Assessee. For accounting purposes, the Assessee amortizes such commission over the period of the financing agreement. However, For tax purposes, the entire commission incurred and paid by the Assessee is claimed by it in the year in which the financing agreement is signed.

9. During the course of assessment, the AO has allowed only the amortized amount, on the ground that the Assessee, for the purpose of its accounts, has adopted amortization, and the AO has relied upon the Supreme Court decision in the case of Madras Industrial Investment Corporation. We found that in a subsequent decision, Hon'ble Supreme Court in the case of Taparia Tools Ltd., 372 ITR 605 after considering its decision in the case of Madras Industrial Investment Corporation [1997] 225 ITR 802, has held that notwithstanding the accounting treatment followed by an assessee, expenditure incurred during the year has to be allowed

in full irrespective of the action of the Assessee of amortizing it. Respectfully following the decision of the Hon'ble Supreme Court in case of Taparia Tools Ltd., (supra), wherein proposition laid down in the case of Madras Industrial Investment Corporation have already been considered, we do not find any infirmity in the order of CIT(A) for allowing deduction of Direct Marketing Agent's commission paid to the Direct Marketing Agent. As the facts and circumstances in all the three assessment years i.e., 2007-08, 2008-09, and 2011-12 are same, following the reasoning given hereinabove, the ground taken by the Revenue is dismissed."

09. LD Dr could not show any differentiating facts and circumstances. Therefore, we do not find any reason to deviate from the above decision. Therefore, respectfully following the same, the grounds no. 1 & 2 of the appeal of the Assessing Officer are dismissed.
010. Grounds no. 3 to 5 of the appeal are on the issue of disallowance of bad debts of Rs. 9,97,01,832/- deleted by Id CIT (A) . The facts relating to the above issue shows that the assessee has raised an additional ground of appeal. Before us, the learned CIT(A) claiming a deduction of Rs. 9,97,01,832/- being delinquency support

pertaining to provision for doubtful debts which has been already subject to tax in Assessment Year 2012-13. The above ground of appeal was admitted by the learned CIT (A) and adjudicated in favour of the assessee. Therefore, the learned Assessing Officer is aggrieved and has raised this ground. The fact shows that assessee creates a provision for doubtful debts on loans in accordance with Reserve Bank of India's prudential norms. The provision of such doubtful debts is merely book entry in terms of those guidelines therefore; the assessee disallowed the same in the computation of total income. The assessee claims out of the above sum any amount, which is actually written off in the profit and loss account, is bad debts. As assessee is engaged in the business of financing vehicles of Tata Motors Limited, it has entered into an agreement with that company, manufacturer of the vehicles, that in case any customer doubtful in loan repayment to the assessee the Tata Motors Limited reimbursed the outstanding balances in customers account to the appellant as and when the debt is already written off by the assessee. This arrangement is stated by the assessee to be delinquency support agreement. The right to receive the above reimbursement of loss accrues to the assessee only when the bad debt is written off by the assessee in its books of account. As assessee is a non-banking financial company, assessee is also making provisions for doubtful debts. If the loan account is covered by the delinquency arrangement, it also creates the simultaneous credit entry

for the amount receivable from Tata Motors Limited. Thus, this amount is credited to the profit and loss account for the impugned assessment year, the entire amount of delinquency support was reduced from the debts written off, and simultaneously provision for doubtful debts was disallowed in the tax computation. It resulted into indirectly offering the delinquency support income which was net off to provision for doubtful debts was offered to tax. On noting this assessee filed revised return of income to disallow the only net amount for AY 2013-14. As per working a sum of Rs. 9,97,01,832/- of delinquency support pertaining to provision of doubtful debts, which was already taxed in AY 2012-13, the assessee claimed the same as deduction in AY 2013-14. However, for Assessment Year 2013-14, the learned Assessing Officer disallowed the above claim and therefore before the learned CIT(A) assessee has raised the above ground for AY 2012-13 for claiming the deduction of Rs. 9,97,01,832/-. The learned CIT (A) allowed the same. The learned Assessing Officer is aggrieved with the above claim allowed by the learned CIT (A) for the reason that (i) such ground was not raised before the Assessing Officer, (ii) the learned CIT (A) should not have admitted the above ground (iii) the admission of the additional evidences such as agreement with Tata Motors Limited is in violation of Rule 46A of the IT Rules and (iv) on the merit the above claim is not allowable.

011. The learned Departmental Representative reiterated of the above arguments as stated in the grounds of appeal.
012. The learned Authorized Representative supported the order of the learned CIT (A).
013. We have carefully considered the rival contentions and perused the orders of the learned Commissioner of Income Tax (Appeals). To state the error committed by the assessee for Assessment Year 2012-13 was that the assessee debited in the profit and loss account provision for doubtful debts of Rs. 7000.66 lakhs, the bad debts written off was debited of Rs. 30012.30 lakhs which was reduced by delinquency support of Rs. 3,684.05 lakhs and thus, debited net bad debts written off of Rs. 26,328.25 lakhs. At the time of preparation of computation of total income, gross provision of doubtful debt of Rs. 7000.66 lakhs was reduced by securitization receipt and further increased by provision for standard asset of Rs. 1,492 lakhs resulting into the sum of Rs. 3,995.78 lakhs, which was disallowed, in the computation of total income. Thus, it is apparent that the amount of delinquencies support pertaining to (1) provision for doubtful debts and (2) of bad debts written off was inadvertently reduced from the bad debts written off which should have been claimed as deduction completely. Further, the gross provision for doubtful debts was added back to the total income in the computation of total income. Thus, apparently, the delinquency support income pertaining to the provision for

doubtful debts which is estimated at Rs. 997.02 lakhs there is higher income shown by Rs. 997.02 lakhs , the above claim was made and accepted by the learned Commissioner of Income Tax (Appeals).

014. We do not find any infirmity in the order of the learned CIT(A) as he has correctly granted the relief to the assessee of the income inadvertently computed higher by Rs. 9,97,01,832/-. We do not find any fetters on the right of the assessee to raise any additional ground of appeal during the pendency of the appeal before the appellate forum provided the facts are available on record. The appellate forum is duty bound to admit such ground on appeal, if the facts of the claim are available on record and no further investigation of the facts are required. While adjudicating the above ground if the appellate authority was presented with some additional evidences, which are necessary for adjudicating the above ground, the same must be admitted. However, the learned CIT (A) is duty bound to follow Rule 46A of the Income-tax Rules. There is no dispute on this. In this fact of the case, the claim of the Assessing Officer in the ground of appeal is that by admitting the additional evidence as such as agreement with Tata Motors Limited, the learned CIT (A) has violated provisions of Rule 46A of the IT Rules. However, looking at the amount of delinquency support allowed by the learned CIT (A), we find that it is merely a simple arithmetic analysis about the computation of total income

and even without looking at the agreement with Tata Motors Limited; this claim is allowed by the learned Commissioner of Income Tax (Appeals). There was no reference to any clauses of the agreement while allowing the claim of the assessee. Thus, we do not find that Id CIT (A) has committed any error by admitting the additional evidences raised by assessee.

015. Even on the merits, the learned Departmental Representative could not point out infirmity in the orders of the LD CIT (A) in allowing the claim, which is merely a computational exercise. Accordingly, we dismiss grounds no. 3 to 5 of the appeal and confirm order of the learned Commissioner of Income Tax (Appeals).

016. In the result, ITA No. 7550/Mum/2016 filed by the learned Assessing Officer is dismissed.

AY 2013-14
ITA 2640/M/2019 [By Revenue]
&
ITA no 244/M/2019 [By Assessee]

017. Now, we come to ITA No. 2640/Mum/2019 filed by the Id AO for AY 20102-13 against the order passed by the learned CIT(A)-3, Mumbai dated 26.09.2018 raising following grounds of appeal:-

"1. "Whether on the facts and in the circumstances of the case and in law, the CIT(A) erred in directing the Assessing Officer to allow the provision of Rs. 75,67,000/- created towards 'Bhavishya Kalyan

Yojna' and Medicare Scheme without appreciating that the disallowance made by the Assessing Officer is as per the provision of section 43B(f) of the Income Tax Act 1961"

2. *"Whether on the facts and in the circumstances of the case and in law, the CIT(A) erred in directing the Assessing Officer to allow the entire DMA commission, as a deduction in the year under consideration "without appreciating that the assessee has itself amortized the said expenditure in its accounts on a matching principle – i.e. Revenue is recognised and expenses are claimed on a matching principle".*

3. *"Whether on the facts and in the circumstances of the case and in law, the CIT(A) erred in directing the assessing officer to allow the entire DMA commission as deduction against the income of the year, without appreciating the ratio of the decision of the Apex Court in the case of Madras Industrial Investment Corporation (225 ITR 802) in which it was held that only proportionate expenditure vis. a vis. revenue on a matching principle should be allowed since allowing the entire expenditure in one year should give a distorted picture of the profit of a particular year.*

4. *Whether on the facts and in the circumstances of the case and in law, the CIT(A) erred in not following the settled legal position in the case of Keshav Mills Limited Vs. CIT 23 ITR 2301 (Supreme Court) and in CIT Vs. Sarangpur Cotton Manufacturing Co. Limited 6 ITR 36 (Gujarat High Court) that there cannot be*

two different method of accounting, one for writing books of accounts and another for computing the tax liability and allowed the entire DMA commission as deduction against the income of the current year.

5. "Whether on the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in partly allowing the appeal of the assessee on the ground of "provision for non performing assets" to the extent of Rs. 26,23,40,000/-, despite the fact that the details/information called for by the assessing officer, were not produced either before the Assessing officer or before CIT(A)."

018. For this year the assessee filed return of income on 29.09.2013 at Rs. 395,64,67,960/-, which was revised on 30.03.2015 at Rs. 346,95,04,300/- and assessed u/s 143(3) of the Act at Rs. 400,51,99,550/- as per order dated 30.03.2016.

019. The Ld Assessing Officer made the following adjustment to the returned income of the assessee.

a. disallowed the provision made in the books of employees welfare in respect of Bhavishya Kalyan Yojna amounting to Rs. 49,74,000/- and provision for medicare of Rs. 25,93,000/-.

b. Disallowed provision of doubtful debts of Rs. 49,94,83,557/-.

c. Disallowed DMA commission as per earlier year of Rs. 94,98,849/- .

d. There was also a difference of Rs. 1,91,5,842/- in dealers commission which was further disallowed.

020. Assessee preferred an appeal against the order of learned Assessing Officer before the learned CIT (A). The learned CIT(A) passed the order on 26.09.2018 wherein he allowed the provision of Rs. 75,67,000/- towards Bhavishya Kalyan Yojna and Medicare Scheme following decision of the coordinate bench in assessee's own case for assessment year 2007 - 08. He also deleted disallowance with respect to the dealers commission of ₹ 9,498,849/- and further Rs 1,91,45,842/- following the decision of the coordinate bench in assessee's own case for assessment year 2007 - 08. He also deleted the disallowance/addition of ₹ 262,340,000 with respect to the delinquency support based on noted number 25 of the annual accounts.

021. During the course of appellate proceedings, assessee submitted that in relation to delinquency support pertaining to provision for doubtful debts which are already taxed in the earlier years amounting to ₹ 237,143,556/- pertaining to assessment year 2008 - 09 to 2012 - 13. The assessee submitted that for assessment year 2008 - 09 and amount of ₹ 4,890,358/- has already been taxed and therefore an additional ground

was filed. For assessment year 2009 – 10 a sum of ₹ 30,309,029/- is also tax but there is no claim made by the assessee at any stage. For assessment year 2010 – 11 a sum of ₹ 32,045,099/- is outstanding for which the rectification application u/s 154 of the income tax act is filed on 23rd of March 2017. For assessment year 2011 – 12 a sum of ₹ 70,197,238/- rectification application u/s 154 of the act is filed on 31st of January 2017. For assessment year 2012 – 13 a sum of ₹ 99,701,832/- claim was allowed by the learned and CIT – A in appeal filed. Assessee also submitted a certificate from statutory auditors confirming that the outstanding delinquency support pertaining to provision for doubtful debts as at 31st of March 2012 amounting to ₹ 237,143,556/- is doubly taxed. The learned CIT – A noted that during the course of appellate proceedings for assessment year 2012 – 13 a sum of ₹ 99,701,842 has already been allowed as deduction to the assessee. Therefore the remaining sum is only ₹ 138,241,814/-. The learned CIT – A rejected this claim holding that there is no provision in the act for giving deduction for excess income offered in any earlier previous year and secondly the appellant has not been able to establish that it had actually offered excess income in any of the earlier years as claimed. Therefore, he dismissed the claim raised by the assessee for deduction of ₹ 138,241,814/- in all those respective assessment years.

022. Therefore, the Assessing Officer aggrieved with that has preferred this appeal. The assessee is also aggrieved with the above order, wherein the learned CIT (A) confirmed the disallowance of Rs. 23,71,43,556/- of the delinquency support claim. Therefore, assessee is also in appeal ITA No. 244/Mum/2019.

023. Grounds in ITA no. 244/Mum/2019 are as Under:-

"Based on the facts and circumstances of the case, TMF Holdings Limited (earlier known as Tata Motors Finance Limited). (hereinafter referred to as the Appellant) respectfully prefers an appeal against the order of the Honorable Commissioner of Income-tax (Appeals) - 3, Mumbai [CIT(A)] issued under section 250 of the Income-tax Act, 1961 (the Act') on the following ground -

1. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the disallowance of a part of the Delinquency Support claim aggregating to Rs 23,71,43,556/-.

The Appellant prays that the learned Assessing Officer be directed to delete the said disallowance."

024. The learned departmental representative, contesting the appeal of the learned assessing officer relied upon the order of the learned assessing officer.

025. On the appeal of the learned AO, the learned authorised representative supported the order of the learned CIT – A.

026. On the appeal of the learned AO, we find that ground number 1 is with respect to the direction of the learned CIT – A 12 the provision of ₹ 7,567,000 created towards the employee benefit schemes. The learned CIT – A followed the order of the coordinate bench in assessee's own case for assessment year 2007 – 08 for allowing the above claim. As the learned CIT – A has followed the decision of the coordinate bench which is not been challenged by the revenue before the higher forum, we do not find any infirmity in the order of the learned CIT – A in deleting the above provision of ₹ 75, 67,000/- towards Bhavishya KalyanYojana and Medicare scheme. Accordingly, ground number 1 of the appeal of AO is dismissed.
027. Ground number two is with respect to the direction of the learned CIT – A to allow the entire direct marketing agents expenses and dealer commission of ₹ 9,498,849/- and Rs. 1, 91,45,842/- respectively. We find that this disallowance has also been deleted by the learned CIT – A following the decision of the coordinate bench in assessee's own case for assessment year 2007 – 08. He further noted that in the computation of total income of appellant has actually added the sum of ₹ 9,498,849/- and further Rs 1,91,45,842/- to the total income of the assessee which the assessing officer has failed to appreciate. He further noted the fact that the assessee itself has submitted that it has disallowed ₹ 9,498,849/-

and Rs 1,91,45,842/- represents the excess amount of amortized direct marketing agent commission and dealer commission respectively over the amounts actually incurred during the year which have been offered for taxation for assessment year 2013 - 14. Therefore, he held that the disallowance made by the learned assessing officer is totally uncalled for. Accordingly, we dismiss ground number 2 - 4 of the appeal of the AO.

028. Coming to ground number 5 where the learned that AO is aggrieved by the order of the learned CIT - A where a sum of ₹ 262,340,000/- being delinquency support receipts allowed. The fact shows that in the computation of total income in its return of income the assessee has added back sum of ₹ 529,164,982/- being provision for non-performing assets and standard assets. This sum was added in the computation of the total income. In the revised return the assessee claimed two new deductions, 1 delinquency support receipts against the provision of ₹ 262,340,000/-, 2. Delinquency support receipts already offered to tax in earlier years amounting to ₹ 237,143,556/-. The delinquency support receipt of ₹ 262,340,000/- was pertaining to the assessment year 2013 - 14 whereas ₹ 237,143,556 was pertaining to earlier years i.e. prior to assessment year 2013 - 14. On analysis of not number 25 the learned and CIT - A noted that in schedule of other expenses the assessee has reduced the expenditure and therefore the income has

been offered to tax to that extent. The learned and CIT has held that as the appellant becomes eligible to receive the delinquency support claim from Tata motors Ltd only at the time when the debt is actually written off, the quantum of delinquency support some which has been provided for did not accrue to the assessee and therefore it is not chargeable to tax in this year. He further noted that the actual delinquency support received of ₹ 11642 lakhs has already been offered for taxation by reducing the same from bad debts written off. Accordingly, the addition of ₹ 262,340,000/- out of the total claim made by the assessee of ₹ 529,164,982/- was allowed. We do not find any infirmity in the finding of the learned CIT – A and accordingly ground number 5 of the appeal of the AO is dismissed.

029. Accordingly, we dismiss appeal filed by the learned assessing officer in ITA number 2640/M/2019 four assessments year thousand 13 – 14.

030. Coming to the appeal of the assessee in ITA number 244/M/2019 raising solitary ground of appeal challenging the action of the learned CIT – A where the addition to the extent of ₹ 237,143,556/- is not deleted. The facts of the case clearly shows that as assessee has entered into an agreement with Tata motors Ltd for delinquency support as soon as the Finance made by the assessee becomes bad and is actually return of by the assessee. The assessee makes provision for doubtful debts and makes

provision for receipt from Tata motors Ltd as delinquency support. As the delinquency support accrues to the assessee as income as and when the debt is written off, the actual bad debt and delinquency support income are chargeable to tax at that particular point of time. However while filing its return of income; in the computation of total income, the assessee has already added the provision for doubtful debts reduced by the delinquency support income receivable. Accordingly, indirectly the delinquency support income is already taxed though it did not accrue to the assessee in earlier years. For assessment year 2012 – 13, a sum of ₹ 99,701,832/- was claimed before the learned CIT – A during the pendency of appeal. As the appeal was pending for that year the learned CIT – A granted relief to the assessee of the above sum. For assessment year 2011 – 12 and 2010 – 11, such sum involved is ₹ 70,197,238/- and ₹ 32,045,099/- respectively for which the rectification application u/s 154 of the income tax act is been filed before the assessing officer on 31st of January 2017 and 23rd of March 2017 respectively. These two rectification applications are pending and not yet disposed of. For assessment year 2009 – 10 a sum of ₹ 30,309,029/- has also been taxed, but assessee has not made any application/petition. Therefore this claim was made before the learned CIT – A for assessment year 2013-14. The learned CIT – A vide para number 6.4.6 has correctly held that there is no provision in the act for giving deduction

for excess income offered in any earlier previous year. We find that neither the learned CIT – A nor income tax appellate tribunal is empowered to give any such direction to the revenue to granted deduction to the assessee in any other previous year, which are not before us. We also find that for some of the years assessee has already filed an application u/s 154 of the income tax act, which may be attended by the learned AO expediently. In view of this, we do not find any infirmity in the order of the learned CIT – A. Accordingly the solitary ground of appeal of assessee is dismissed.

031. In the result, for assessment year 2013 – 14 of appeal of the AO as well as the assessee are dismissed.

Order pronounced in the open court on 13.04.2022.

Sd/-
(KULDIP SINGH)
(JUDICIAL MEMBER)

Mumbai, Dated: 13.04.2022

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai