

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA Nos. 6836 & 7492/Del/2018
(Assessment Years : 2013-14 & 2014-15)

ACIT Circle – 31(1) New Delhi PAN No. AAAAI 0050 M (APPELLANT)	Vs.	Indian Farmers Fertilizers Co-operative Ltd. (IFFCO) IFFCO Sadan, C-1, District Centre, Saket Place New Delhi – 110 017 (RESPONDENT)
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Assessee by	Shri Trandeep Singh, Adv.
Revenue by	Shri Ranu Mukharjee, CIT-D.R.

Date of hearing:	17.08.2022
Date of Pronouncement:	08.09.2022

ORDER

PER ANIL CHATURVEDI, AM :

Both the appeals filed by the Revenue are directed against the order dated 25.01.2018 of the Commissioner of Income Tax (Appeals)-11, New Delhi relating to Assessment Years 2013-14 & 2014-15.

2. Since the issue in both the appeals are common, therefore we have clubbed both of them together for the sake of brevity and convenience. However, we are taking ITA No.6836/Del/2018 for A.Y. 2013-14 as a lead case.

3. The relevant facts as culled from the material on records are as under :

4. Assessee is a Multi-State Cooperative Society registered under the Multi State Cooperative Societies Act, 2002 and is stated to be engaged in the business of manufacturing of chemical fertilizers through its seven operative units at various places. Assessee electronically filed its return of income for A.Y. 2013-14 on 29.11.2013 declaring total income of Rs.912,65,23,380/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 31.12.2017 and the total income was determined at Rs.1369,02,51,250/-. Thereafter, a rectification order was passed by AO u/s 143(3) r.w.s 154 on 23.01.2018 wherein the total income was assessed at Rs.1268,48,02,250/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 25.01.2018 in Appeal No.257/17-18 granted substantial relief to the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal and has raised the following grounds:

“1. Whether on the facts and circumstances of the case, the Ld CIT(A) was justified in relying upon the order of ITAT in the assessee’s own case for A.Y. 2010-11, wherein Hon’ble ITAT had ignored the reasoning given by Ld PCIT for application of debt-equity ratio for calculation of interest to be capitalized/ disallowed on addition made to fixed assets and capital work in progress and amount of investment as the same was accepted in decision of the Hon’ble ITAT Delhi in the case of M/s. U. G. Hospitals (P.) Ltd. in ITA No.5727/Del/2010 where mized pool of fund was available with the assessee.

2. *The Department craves leave to add, alter or amend the grounds of appeal at a later stage.”*

5. During the course of assessment proceedings, on perusal of Balance Sheet for A.Y. 2013-14, AO noticed that assessee had shown borrowed funds of Rs.10,598.79 crores as against which share capital and Reserve and Surplus was Rs.6,281.19 crores. AO also noticed that assessee had shown investment of Rs.2,421.62 crores and capital work-in-progress of Rs.593.08 crores. AO noted that assessee had not shown any figure of interest pertaining to investments or capital work-in-progress. Assessee was asked to furnish the interest component in capital work-in-progress and investments made out of borrowed funds to which assessee made detailed submissions. It was *inter alia* submitted that assessee had sufficient interest free funds for making investments and investments were out of own interest free funds. The submissions of the assessee was not found acceptable to AO. AO was of the view that the onus was on the assessee to establish the nexus of utilization of own funds in investments and capital work-in-progress. AO also noted that assessee has not given any working with regard to the borrowed funds or own funds. AO thereafter held that since assessee has not established or pointed to the nexus of interest free funds being used for investments, he was of the view that fair and reasonable method was debt equity ratio for the purpose of reallocating the interest under various heads of income. He thereafter at Para 58 of the order worked out the average debt equity ratio @1.63 and based on the aforesaid working, he worked

out that out of the total investments made by assessee, investments worth Rs.705.76 crore were invested out of the borrowed funds. He thereafter held that since borrowed funds generally bears an interest rate between 9-10%, an average of 9.5% would be the fair rate of interest at which the funds were borrowed and invested. He thus accordingly worked out the interest cost on investments to be out of borrowed funds that was worked at Rs.705.76 crores and on such investment, by applying the interest rate of 9.5% worked out the interest cost at Rs.65.05 crores which according to the AO should have been capitalized by the assessee. He accordingly denied the claim of deduction of Rs.65.05 crore u/s 36(1)(iii) of the Act and held that the same should have been capitalized. He thus made addition of Rs.65.05 crore.

6. As far as capital work-in-progress is concerned, he noted that assessee had incurred Rs.593.08 crores as capital work-in-progress. He on the basis of debt equity ratio of 1.63, worked out by him, held that Rs.373.64 crore were borrowed funds which was used for capital work-in-progress. On such borrowed funds used for capital work in progress, he worked out the interest at Rs. 35.46 crores which according to him should have been capitalized and not claimed as deduction u/s 36(1)(iii) of the Act and thus made addition of Rs.35.49 crores.

7. Aggrieved by the order of AO, assessee carried the matter before CIT(A). CIT(A) noted that identical issue arose in assessee's

own case before his predecessor in A.Y. 2012-13 and his predecessor by following the order of Tribunal in assessee's own case for A.Y. 2010-11 deleted the addition made by CIT(A). He therefore, following the decision of Tribunal in assessee's own case, wherein it was held that assessee had sufficient interest free funds to meet the capital expenditure and to make investments, no disallowance u/s 36(1)(iii) of the Act can be made. He thus deleted the addition. While deleting the addition, CIT(A) also followed the decision of Hon'ble Bombay High Court in the case of **Reliance Utilities 313 ITR 340** and of Delhi High Court in the case of **Eicher Goodearth in ITA No. 54/2000**. Aggrieved by the order of CIT(A), Revenue is now in appeal before us.

8. Before us, Learned DR supported the order of lower authorities.

9. Learned AR on the other hand reiterated the submissions made by lower authorities and further submitted that identical issue arose in Revenue's appeal in assessee's own case for A.Y. 2012-13 and Co-ordinate Bench of Tribunal vide order dated 25.03.2022 had deleted the addition. He submitted that since the facts in the case in the year under consideration are identical to that of earlier years, no interference to the order of CIT(A) is called for. He pointed to the copy of order of Tribunal for A.Y. 2012-13 which was placed at Page 94 to 99 of the paper book.

10. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to disallowance u/s 36(1)(iii) of the Act. We find that CIT(A) while deciding the issue in favour of the assessee has followed the decision of Tribunal in assessee's own case for A.Y. 2010-11. We further find that thereafter, Co-ordinate Bench of Tribunal in assessee's own case for A.Y. 2012-13 has decided the identical issue in assessee's favour. Before us, no distinguishing feature in the facts of the case and that of earlier years which have been decided by ITAT in assessee's favour has been pointed out by Revenue. In such a situation, we find no reason to interfere with the order of CIT(A) and **thus the ground of Revenue is dismissed.**

11. In the result, appeal of Revenue is dismissed.

12. As far as ITA No.7492/Del/2018 for A.Y. 2014-15 is concerned, before us, both the parties have submitted that the issue raised in the appeal for A.Y. 2014-15 is identical to that of A.Y. 2013-14. We have hereinabove while deciding the appeal for A.Y. 2013-14 for the reasons stated have dismissed the grounds of Revenue and thus the appeal of the Revenue was dismissed. We therefore for similar reasons also dismiss the grounds of the Revenue for A.Y. 2014-15. **Thus the appeal of the Revenue is dismissed.**

13. In the combined result, both the appeals of the Revenue are dismissed.

Order pronounced in the open court on 08.09.2022

**Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER**

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 08.09.2022

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI