

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

**Before Sh. Kul Bharat, Judicial Member  
Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 2763/Del/2017 : Asstt. Year : 2013-14**

Addl. CIT, Special Range-1, New Delhi-110006	Vs	M/s Apra Auto India Pvt. Ltd., K-80, Hauz Khas Enclave, New Delhi
(APPELLANT)		(RESPONDENT)
<b>PAN No. AADCA3085B</b>		

**Assessee by : Sh. Rajat Jain, CA &  
Sh. Akashat Jain, CA  
Revenue by : Sh. Kanav Bali, Sr. DR**

<b>Date of Hearing: 25.10 .2022</b>	<b>Date of Pronouncement: 26.10.2022</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-I, New Delhi dated 15.02.2017.

2. Following grounds have been raised by the Revenue:

*"1. The Id. CIT(A) erred in deleting addition of Rs.1,42,66,207/- made on account of unconfirmed creditors namely M/s Anu Soft, Fucon Technologies Pvt. Ltd. and M/s Bhargava Motors by admitting additional evidence in violation of Rule 46A(3) of Income Tax Rules, 1962.*

*2. The Id. CIT(A) erred in deleting addition of Rs.1,45,74,536/- made on account of disallowance of interest."*

3. The assessee company is authorized dealer of Maruti Suzuki India Ltd. for sales, service and repairs of entire range of Maruti cars in Delhi, NCR and Haryana. The assessee filed its

return of income on 30.09.2013 declaring gross total income of Rs.3,73,63,140/-. The assessment u/s 144 of the Income Tax Act, 1961 was made on 15.02.2016 determining the total income at Rs.24,64,10,556/- by making the following additions:

**Sundry creditors:**

4. The AO made addition on account of sundry creditors namely, M/s Fucon Technologies Pvt. Ltd. and M/s Bhargava Motors owing to non-submission of details during the assessment proceedings. The Id. CIT(A) held that the additions made by the AO have no legs as the sundry creditors which have been treated as bogus and non-genuine have been proved to be doing continuous business with the assessee and the entire transactions with these parties made by the assessee during the A.Y. 2010-11, A.Y. 2011-12 and A.Y. 2012-13 have been accepted by the department and the transactions done by the assessee through its various branches situated at Narnaul, Pataudi, Vsant Kunj, Manesar, Rewari, Palam Vihar, Nuh have been considered as genuine owing to the examination of the transactions and the payments made through bank of Baroda for the prior A.Y. 2010-11 to A.Y. 2012-13 and subsequent A.Y. 2013-14, A.Y. 2014-15 have been accepted by the revenue. We find that these additions have been made owing to non-compliance before the AO and since the Id. CIT(A) has deleted the additions after detailed examination of the entire transactions over a period of five years, we decline to interfere with the reasoned order of the Id. CIT(A). The appeal of the Revenue on this ground is dismissed.

**Disallowance of Interest:**

5. The AO observed that the assessee has debited financial cost of Rs.10.88 Cr. on short term borrowings of Rs.24.71 Cr. and long term borrowings of Rs.39.52 Cr. and an amount of Rs.8.59 Cr. has been lent to sister concern. The AO held that no income has been shown on loans and advances given to the related parties to tune of Rs.8.59 Cr. and disallowed the equivalent amount @ 16.95% on Rs.8.59 Cr. out of the financial cost debited in the P&L account. The Id. CIT(A) deleted the addition on the grounds that the assessee company has got shareholder fund (own funds) of Rs.40.50 Cr. as on 31.03.2013 and Rs.31.65 Cr. as on 31.03.2012 [page no. 41 of the CIT(A)]. This fact has not been controverted by the revenue before us. Hence, keeping in view the orders of the Hon'ble Supreme Court in the case of Hero Cycles (379 ITR 345) and the judgment of Hon'ble Supreme Court in the case of CIT Vs. Reliance Utilities & Power Ltd. vide order dated 09.01.2009 which has been passed after examining the judgments of Hon'ble Calcutta High Court in the case of Woolcombers of India Ltd. (134 ITR 219) and East India Pharmaceutical Works Ltd. Vs. CIT (224 ITR 627) wherein it was held that where an assessee has his own funds as well as borrowed funds, a presumption can be made that the advances for non-business purposes have been made out of the own funds and that the borrowed funds have not been used for this purpose.

6. Since, it is an undisputed fact that the assessee had own sources to the tune of Rs.31.65 Cr. which is far more than Rs.8.59 Cr. purportedly given interest free to the sister concerns, relying on the judgments of the Hon'ble Apex Court, we decline to interfere with the order of the Id. CIT(A) who

held that notional interest cannot be charged. The appeal of the revenue on this ground is dismissed.

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

Order Pronounced in the Open Court on 26/10/2022.

Sd/-

**(Kul Bharat)**  
**Judicial Member**

**Dated: 26/10/2022**

\*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**