

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR – VIRTUAL COURT

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
SHRI Dr. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.324/NAG/2017

निर्धारण वर्ष / Assessment Year : 2009-10

Arjuna Cotton Industries Kirana Bazar, Akola (MS) - 444001 PAN : AACFA4189L	Vs.	JCIT, Akola Range, Akola
Appellant		Respondent

Assessee by Shri Mukesh Agarwal
Revenue by Shri G.J. Ninawe

Date of hearing 16-11-2022
Date of pronouncement 09-12-2022

आदेश / ORDER

PER S.S. GODARA, JM:

This assessee's appeal for AY 2009-10 arises against the CIT(A)-1, Nagpur's order dated 22-05-2017 passed in case No. CIT(A)-1/341/2011-12 involving proceedings under Section 143(3) of the Income Tax Act, 1961, in short 'the Act'.

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

“1. That on the facts and in the circumstances of the case the learned CIT Appeal has erred in confirming addition of Rs.3,15,232/- made by the ld. AO on account of interest on advances given to sister concern which was received and

accounted for as income in the next year. The addition is unjustified, arbitrary and deserved to be deleted.

2. That the addition of Rs.3,15,232/- in the relevant AY tantamount to taxation of same income twice since this amount is also taxed in next year, i.e. AY 2010-11 on receipt basis. The double taxation of same income is not permissible under the law.”

3. Learned counsel’s submits during the course of hearing that he does not challenge correctness of the impugned section 36(1)(iii) interest disallowance of Rs.3,15,232/- in principle. The same stands upheld therefore.

4. Learned counsel next submitted that the assessee had already offered its interest receipts in the subsequent assessment year 2010-11 and therefore, this addition does not deserve to be sustained since amounting to double disallowance. We find no merit in the assesee’s instant arguments once the impugned disallowance of interest itself u/s.36(1)(iii) stand upheld in principle wherein it stands concluded that this taxpayer had diverted its interest bearing funds for non-business purposes. We, therefore, decline the assessee’s latter substantive ground as well. It is made clear that the learned Assessing Officer’s consequential assessment may consider credit of the assessee’s taxes paid in the assessment year 2010-11, if available as per law. Ordered accordingly.

5. No other ground or argument has been raised before us.
6. This assessee's appeal is dismissed in above terms.

Order pronounced in the open Court on 09th December, 2022.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 09th December, 2022
Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(Appeal)-1, Nagpur
4. The Pr. CIT-1, Nagpur
5. The DR, ITAT, Nagpur;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	29-11-2022	Sr.PS
2.	Draft placed before author	06-12-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		