IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "E": DELHI

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHARY, JUDICIAL MEMBER

ITA.No.7966/Del./2019
Assessment Year 2016-17

The Special Range-6 New Delhi	vs.	National Fertilizers Ltd., Corporate Office, A-11, Sector-24, Noida, Uttar Pradesh 201301
(Appellant)		(Respondent)

For Revenue :	Ms. Sarita Kumari, CIT-DR
For Assessee :	Shri Ved Jain, Advocate Shri Aman Garg, CA

Date of Hearing :	13.12.2022
Date of Pronouncement :	06.01.2023

ORDER

PER ANIL CHATURVEDI, A.M. :

This appeal filed by the Revenue has been directed against the Order of the Ld. CIT(A)-6, Delhi, Dated 10.07.2019, relating to the A.Y. 2016-17.

2. Briefly, the facts of the case as culled out from the material on record are as under :

2.1. Assessee is a company stated to be engaged in the business of manufacturing of nitrogenous fertilizers and trading of industrial products. Assessee filed its return of income for A.Y. 2016-17 on 05.10.2016, declaring taxable income at Rs. NIL after adjustment of brought forward losses and unabsorbed depreciation. Assessee also declared income of Rs. 2,84,42, 61,344/- u/s. 115JB of the Act. The case of the assessee was selected for scrutiny and thereafter the assessment was framed under section 143(3) of the I.T. Act, 1961 vide order dated 26.12.2018 wherein the total income before the adjustment of brought forward losses was determined at Rs. 299,66,84,416/- and after the adjustment of brought forward losses, the total taxable income was determined at Rs. NIL. The total book profit u/s. 115JB was determined at Rs. 284,52,88,240/-

2.2. Aggrieved by the order of the A.O. assessee carried the matter in appeal before the Ld. CIT(A) who vide order dated 10.07.2019 in Appeal No.Delhi-6/10326/2018-19 granted substantial relief to the assessee.

3. Aggrieved by the order of the Ld. CIT(A), the Revenue is now in appeal before the Tribunal and has raised the following Grounds :

1. Whether on facts and circumstances of the case, the Ld. CIT(A) has erred in law by ignoring the facts that section 145 of the Act, permits use of one type of accounting system in a particular year and mixed accounting system is not allowed.

2. Whether on the fact and circumstances of the case, Ld.CIT(A) has erred in law by deleting the addition made by the AO on account of accrued interest of Rs. 6,48,00,000/- by ignoring the fact that mere improbability of recovery, does not mean that no real income has accrued to the assessee.

3. Whether on the fact and circumstances of the case, Ld.CIT(A) has erred in law in deleting the addition of Rs. 6,64,00,000/- by not appreciating the provision laid down in explanation to section 37(1) wherein it has been said for the purpose which is an offence or which is prohibit by law shall not be allowed as expenditure.

4. Whether on the facts & in the circumstances of the case, the Ld. CIT(A) has erred in law by deleting the addition of Rs. 2,64,00,000/- made without considering the demurrage & wharfage expenses as penalty.

5. Whether on the facts & in the circumstances of the case, the Ld. CIT(A) has erred in law by deleting the addition of Rs. 2,64,00,000/- made without considering the fact that the Railway Act had defined the demurrage and wharfage as the charge levied, charge means the blame or accusation hence penalty.

6. Whether on the facts & in the circumstances of the case, the Ld. CIT(A) has erred in law by deleting the addition of Rs. 4,31,00,000/- by ignoring the fact that

the assessee made the provision for diminution in the value of slow moving and non-moving stores and spares without any recommendation of CAG or Auditor for change in method of valuation.

7. Whether on the facts & in the circumstances of the case, the Ld. CIT(A) has erred in law by deleting the addition of Rs. 30,87,960/- by ignoring the provision under section 36(1) and the fact that the depreciation should be @15% of such items.

8. Whether on the facts & in the circumstances of the case, the Ld. CIT(A) has erred in law by deleting the addition of Rs. 2,42,880/- by ignoring the fact that the assessee did not credited the interest accured thereon during the year to P & L account.

4. Before us, both the parties agreed that ground no 1 & 2 are interconnected and are in relation to the deleting of addition of accrued of interest of Rs. 6,48,00,000/-.

5. During the course of assessment proceedings and on perusing the annual accounts, A.O. noticed that

assessee had not offered interest accrued on advances given to M/s Karsan. The assessee was asked to provide details of interest accrued on advances and also show cause as to why interest on advance as per the award given by arbitration not be treated as income of the assessee. Assessee filed detail submissions which was not found acceptable to the A.O. A.O. was of the view that since the assessee was following mercantile system of accounting, the assessee should have offered the accrued interest to tax. He was further of the view that assessee was perusing the recovery of amount advanced and had approached the courts for enforcing the recovery. He was further of the view that assessee was entitled to charge interest at 5% per annum on the principle amount as per the arbitration award. A.O. thereafter worked out interest income at 5% per annum on the outstanding amount of advances of Rs. 129.64 crore and worked out the interest at Rs. 6,48,20,000/- and held it to be the interest income of the assessee.

6. Aggrieved by the order of A.O. assessee carried the matter before Ld. CIT(A).

7. Ld. CIT(A) deleted the addition and for deleting the addition he was guided by the fact that identical additions made in earlier years were deleted by Ld. CIT(A) and further the issue also stands covered in assessee's favour by the decision of Hon'ble Delhi High Court. He thus deleted the addition made.

8. Aggrieved by the order of Ld. CIT(A), Revenue is now before us.

9. Before us, Ld. DR supported the order of A.O.

10. Ld.AR on the other hand reiterated the submissions made before lower authorities and further submitted that the issue raised in the present grounds of Revenue are squarely covered by the decision of Hon'ble jurisdictional High Court in assessee's own case for A.Y. 2006-07 to 2008-09 (order dated 24.04.2017). He pointed to the copy of the order placed at page 222 to 227 of the paper book. He further submitted that on identical issue, the

coordinate bench of the Tribunal in assessee's own case for A.Y. 2013-14 and 2014-15 (order dated 30.09.2021) has decided the issue in favour of the assessee. He pointed to the relevant findings at page 301 to 303 for paper book. He thus supported the order of lower authorities.

11. We have heard the rival submissions and perused the material on record. The issue in present grounds is with respect to the deleting the addition of Rs. 6,48,00,000/- that was made by the A.O. on account of interest accrued on amount advanced to Karsan, but deleted by Ld. CIT(A). We find that identical issue arose in assessee's own case for A.Y. 2013-14 & 2014-15. The issue was decided in assessee's favour by the coordinate bench of Tribunal vide order dated 30.09.2021 by observing as under:-

> *10. We have heard both the parties and perused the material available on record. It is pertinent to note that the Hon'ble High Court in assessee's case for AYs. 2006-07 to 2009-10 held as under:*

"10. The third ground urged by the Revenue is regarding the failure by ITAT to disclose as part of its income, the interest accrued on the advance made by it to M/s. Karsan. Learned counsel for the Revenue pointed out that by a judgment dated 4th December 2006 of this Court, the arbitral award in favour of the Assessee under the Arbitration Act, 1940 was made rule of the Court. He submitted that although up to that date it could be said that the interest on the advance had not crystallized (as was held by this Court in its order dated 24th September, 2012 in ITA 541/2012 in the Assessee's own case for the AY 2005-06), for the subsequent AYs the right to receive interest had accrued to the Assessee and should have been added to its income.

11. Learned counsel for the Assessee, on the other hand, states that the concept of 'real income' has been accepted by the Supreme Court in Godhra Electricity Co. Ltd. v. CIT, (1997) 225 ITR 746 (SC) and this was followed by this Court in its decision dated 19th May,

2015 in ITA No. 268/2008 (Liquidator Polymerland India Pvt. Ltd. v. DCIT). It is pointed out that where no part of the advance has been able to be recovered by the Assessee, notwithstanding the Award in its favour, no 'real income' can be said to have accrued to it.

12. The ITAT has in the impugned order held as under:

"There is no dispute that the ICA has awarded interest to the assessee @ 5% p.a. on the advance made to M/s. Karsan. It is also not disputed that the assessee could not made recovery against the advance (principal amount) of Rs. 130.69 crores, an amount of Rs. 1.05 crores only could be recovered leaving balance advance of Rs. 129.64 crores which could not be recovered till date. The notional interest awarded by the International Court of Arbitration, which has now attained finality is a hypothetical income which cannot be subjected to tax. Merely because the said amount has been awarded by way of an order, does not mean that the assessee has received such income. The assessee followed mercantile

system of accounting where there cannot be a situation of hypothetical income being taxed"

13. Indeed, it is seen that no part of the advance given by the Assessee to M/s. Karsan has been able to be recovered by it. As pointed out by learned counsel for the Assessee, there was a case registered with the Central Bureau of Investigation (CBI) in that regard and any prospect of the money being recovered has all but vanished. Since no part of the principal amount could actually be recovered by the Assessee, there was no 'real income' and the question of adding any notional accrued interest to its income on such amount does not arise. In the entire facts and circumstances of the case, the Court agrees with the concurrent findings of the CIT(A) and ITAT . No substantial question of law arises as regard this issue as well."

Since, the issue contested in the present ground is identical to that of earlier assessment years and no distinguishing facts were pointed out by the Ld. DR.

Ground No. 1 of the Revenue's appeal is dismissed.

12. Before us, Revenue has not pointed to any distinguishing facts of the case in the year under consideration and that of the earlier years nor has placed any material on the record demonstrate that the order of the coordinate bench in assessee's own case for earlier years has been set aside/overruled/stayed by higher judicial forum. In view of the aforesaid facts and following the reasoning of the coordinate bench of the Tribunal while deciding the identical issue in assessee's own case for earlier year, we find no reason to interfere with the order of the Ld. CIT(A) on this ground and **thus the ground of revenue is dismissed.**

13. Ground nos 3 to 5 are with respect to deleting the addition of Rs. 2,64,00,000/- (though in the ground the amount is wrongly stated as Rs. 6,64,00,000/-).

14. During the course of assessment proceedings and on perusing the Profit and Loss account, A.O. noted that assessee has debited of Rs. 2,64,00,000/- as demurrage

and wharfage expenses. A.O. was of the view that since the expenses were in the nature of fine and penalty, it was not an allowable expenditure. The assessee was therefore asked to explain as to why the expenses not be disallowed, to which assessee made detailed submissions but the same was not found acceptable to A.O. A.O. was of the view that the Explanation 1 to section 37(1) gets attracted to the amount claimed as expenditure. He further noted that though the additions made by the A.O. on identical issue have been deleted by Ld. CIT(A) and allowed by Supreme Court but however the Department has filed appeal before High Court and the matter has not attained finality. He therefore for the reasons given in the order, held that the amount paid was not allowable and Explanation 1 to section 37(1) gets attracted. He accordingly disallowed the expenditure of Rs. 2,64,00,000/-.

15. Aggrieved by the order of A.O. assessee carried the matter before Ld. CIT(A).

16. Ld. CIT(A) while deleting the addition noted that identical issue arose in assessee's own case in earlier years

when the Ld. CIT(A) had deleted the addition and the action of Ld. CIT(A) was upheld by Hon'ble ITAT and Hon'ble Delhi High Court. He noted that since the facts in the year under consideration were identical to that of earlier years, he following the decisions of his predecessor, deleted the addition.

17. Aggrieved by the order of Ld. CIT(A), Revenue is now before us.

18. Before us, Ld. DR supported the order of A.O.

19. Ld.AR on the other hand submitted that the issue raised in the present ground by Revenue is squarely covered by the decision of Hon'ble jurisdictional High Court in assessee's own case for A.Y. 2006-07 to 2008-09 (in order dated 24.04.2017). He pointed to copy of order placed at page no 224 to 227. He further submitted that the issue is also covered by the decision of Hon'ble Tribunal in assessee's own case for A.Y. 2013-14 & 2014-15 (order dated 30.09.202). He pointed to the copy of order placed at page no. 293 to 319. He thus supported the order of CIT(A).

20. We have heard the rival submissions and perused the material on record. The issue in present grounds is with respect to the deleting the addition of Rs. 2,64,00,000/- that was disallowed by the A.O. by invoking Explanation 1 to u/s. 37(1) but deleted by Ld. CIT(A). We find that identical issue arose in assessee's own case for A.Y. 2013-14 & 2014-15 and the issue was decided in assessee's favour by the coordinate bench of Tribunal vide order dated 30.09.2021 by observing as under:-

> *13. We have heard both the parties and perused the material available on record. It is pertinent to note that the Hon'ble High Court in assessee's case for AYs. 2006-07 to 2009-10 held as under:*
>
> *"3. These four appeals seek to raise a common question whether the ITAT was justified in deleting the disallowance of demurrage and wharfage charges, which according to the Revenue was in the nature of penalty and, therefore, not amenable to deduction under Section 37(1) of the Income Tax Act, 1961?*

4. The said question already stands answered in favour of the Assessee and against the Revenue by the judgment of this Court in Mahalaxmi Sugar Mills Company v. Commissioner of Income Tax, (1986) 157 ITR 683 (Delhi) and of the Allahabad High Court in Nanhoomal Jyoti Prasad v. Commissioner of Income Tax, (1980) 123 ITR 269 (All).

5. However, learned counsel for the Revenue seeks to rely on the judgment of the Rajasthan High Court in Tata Iron & Steel Co. Ltd. v. Union of India (decision dated 28th January 2014 in SB Civil Misc. Appeal No. 65/1997).

Having perused the said judgment, the Court is not persuaded to take a view different from that earlier taken by this Court in Mahalaxmi Sugar Mills Company v. Commissioner of Income-Tax (supra).”

Since, the issue contested in the present ground is identical to that of earlier assessment years and no

distinguishing facts were pointed out by the Ld. DR. Ground No. 2 of the Revenue's appeal is dismissed

21. Before us, Revenue has not pointed to any distinguishing facts of the case in the year under consideration and that of the earlier years nor has placed any material on the record demonstrate that the order of the coordinate bench in assessee's own for earlier years has been set aside/overruled/stayed by higher judicial forum. In view of the aforesaid facts and following the reasoning of the coordinate bench of the Tribunal in assessee's own case for earlier years, we find no reason to interfere with the order of the Ld. CIT(A) on this ground and **thus the ground of revenue is dismissed.**

22. Ground no. 6 is with respect to deleting the addition of Rs. 4,31,00,000/- on account of addition made for slow moving, stores and spares.

23. During the course of assessment proceedings and on perusing the Profit and Loss Account, A.O. noticed that assessee that assessee has written off stores and spares of

Rs. 4,31,00,000/- . The assessee was asked to explain is to why the expenses not be disallowed to which assessee filed detailed submissions but the same was not found acceptable to A.O. A.O. noted that assessee had modified the accounting policy for valuation of slow moving, non moving, and obsolete stores with effect from A.Y. 2005-06 wherein the stores and spares which had not moved over certain period was considered as non moving and claimed as expenditure. A.O. was of the view that the accounting policy followed by the assessee was in contravention to the provisions section 145A of the IT Act and according to A.O. the provisions of section 145 prevail over the accounting policies. He thereafter for the reasons noted in the assessment order disallowed the claim of slow moving, non moving stores of Rs. 4,31,00,000/- and made its addition.

24. Aggrieved by the order of A.O. assessee carried the matter before Ld. CIT(A). CIT(A) by following the decision of his predecessor in assessee's own case of A.Y. 2014-15 deleted the addition. While deleting the addition, Ld. CIT(A)

has also noted that in assessee's own case in earlier years, the addition has been deleted by Hon'ble ITAT.

25. Aggrieved by the order of Ld. CIT(A), Revenue is now before us.

26. Before us, Ld. DR supported the order of A.O.

27. Ld.AR on the other hand submitted that the issue raised in the present ground of Revenue is squarely covered in assessee's favour by the decision of Hon'ble jurisdictional High Court in assessee's own case for A.Y. 2006-07 to 2008-09 (in order dated 24.04.2017). He pointed to copy of order placed at page no 224 to 227. He further submitted that the issue is also covered by the decision of Hon'ble Tribunal in assessee's own case for A.Y. 2013-14 & 2014-15 order dated 30.09.2021. He pointed to the copy of order placed at page no. 304-305 of the paper book. He thus supported the order of Ld. CIT(A).

28. We have heard the rival submissions and perused the material on record. The issue in present ground is with respect to the deleting the addition of Rs.

4,31,00,000/- on account of slow moving stores and spares. We find that identical issue arose in assessee's own case for A.Y. 2013-14 & 2014-15, wherein the issue was decided in assessee's favour by the coordinate bench of Tribunal vide order dated 30.09.2021 by observing as under:-

> *16. We have heard both the parties and perused the material available on record. It is pertinent to note that the Hon'ble High Court in assessee's case for AYs. 2006-07 to 2009-10 held as under:*
>
> *"5. This Court is of the opinion that the Revenue's contentions are unmerited. The assessee was all along reflecting the full value of the stock; for the year i.e. AY 2004-05 the CAG had made an observation that Slow-Moving Stock had to be realistically valued. This resulted in a fresh valuation by an engineering expert. Based upon this exercise the valuation was reduced to ₹ 47.76 crores.*
>
> *6. Having regard to these circumstances, the Revenue's contention that the acceptance of 5% as the basis for*

valuing the Slow Moving Stock being unscientific, is baseless in our opinion. Once the engineering expert examined all the heads of stock and valued them, to the best of his judgment, and in the absence of any finding that the 5% was not relatable to such valuation without an alternative valuation or that it is a flawed method of valuation, the AO could not have rejected what was offered as the reduced value of the Slow-Moving Stock. In other words, there is nothing on the record to doubt the bonafides of the valuation. In the event of likelihood of the stocks realizing higher amount than the value shown, the same would be reflected in the subsequent year in the income or profit of the assessee, the Revenue's contention is without any merit.

7. Nor do we find any reason to subscribe and uphold the AO's adverse observations that the change in method of valuation was without basis. In fact the observations of the CAG in this case led to the change and adoption of AS-2, which was not previously resorted to.

8. For the above reasons, no substantial questions of law arise in the appeals. They are, accordingly, dismissed."

Since, the issue contested in the present ground is identical to that of earlier assessment years and no distinguishing facts were pointed out by the Ld. DR. Ground No. 3 of the Revenue's appeal is dismissed.

29. Before us, Revenue has not pointed to any distinguishing facts of the case in the year under consideration and that of the earlier years nor has placed any material on the record to demonstrate that the order of the coordinate bench in assessee's own case for earlier years has been set aside/overruled/stayed by higher judicial forum. In view of the aforesaid facts and following the reasoning of the coordinate bench of the Tribunal in assessee's own case, we find no reason to interfere with the order of the Ld. CIT(A) on this ground and thus the ground of **Revenue is dismissed**.

30. Ground no. 7 is with respect to the deleting the addition of Rs. 30,87,960/- on account of depreciation claimed on UPS, computer and other computer peripherals.

31. During the course of assessment proceedings A.O. noticed that assessee had claimed deprecation at the 60% on items like UPS, racks, switches, lan/wan which were included under asset categories of "computer". The assessee was asked to explain as to why the deprecation of aforesaid items not be restricted to 15% being the rates applicable to plant and machinery as against the claim of 60% made by the assessee. Assessee made the detailed submission which were not found acceptable to A.O. A.O. thereafter for the reasons stated in the order restricted the claim of deprecation at 15% and thus worked out the excess claim of deprecation of Rs. 30,87,960/- and disallowed the same.

32. Aggrieved by the order of A.O. assessee carried the matter before Ld. CIT(A). CIT(A) by following the order of his predecessor for A.Y. 2013-14, decided the issue in assessee favour and deleted the disallowance made by A.O.

33. Aggrieved by the order of Ld. CIT(A), Revenue is now before us.

34. Before us, Ld. DR supported the order of A.O.

35. Ld.AR on the other hand stated that the issue raised in the present ground of Revenue is squarely covered in assessee's favour by the decision of Hon'ble jurisdictional High Court in assessee's own case for A.Y. 2006-07 to 2008-09 (in order dated 24.04.2017). He pointed to copy of order placed at page no 224 to 227. He further submitted that the issue is also covered in assessee's favour by the decision of Hon'ble Tribunal in assessee's own case for A.Y. 2013-14 & 2014-15 order dated 30.09.2021. He pointed to the copy of order placed at page no. 305-306 of the paper book. He thus supported the order of Ld. CIT(A).

36. We have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to the deleting the addition of Rs. 30,87,960/- on account of depreciation claimed on UPS, computer andother computer peripherals. We find that identical issue

arose before the Tribunal in assessee's own case for A.Y. 2013-14 & 2014-15. The issue was decided in assessee's favour by the coordinate bench of Tribunal vide order dated 30.09.2021 by observing as under:-

> *19. We have heard both the parties and perused the material available on record. The Tribunal in assessee's own case for A.Y. 200506 held as under:*
>
> *"14. Ground No. 2 is with regard to the issue as to whether depreciation on UPS is to be allowed at 60% or at normal rate of 25%.*
>
> *15. The claim of the assessee of depreciation on LAN/WAN and UPS @ 60% has been reduced to 25% by the AO by observing that LAN/WAN and UPS are not essential part of computer system but can only be treated as plant.*
>
> *16. On an appeal, the learned CIT(A) allowed the assessee's claim after following the decision of Tribunal, 'F' Bench, Delhi in the case of Expeditors International (India) Pvt. Ltd. Vs. ACIT, 118 TTJ 652 (Del), where it*

was held that printers, scanner, UPS would form integral part of the computer and as such, they are eligible for depreciation at a higher rate as applicable to the computer.

17. Both the parties were heard and orders of the authorities below have been perused.

18. In the case of CIT vs. BSES Yamuna Powers Ltd. (ITA No. 1267/2010), dated 31st August, 2010, the Hon'ble High Court has upheld the order of the Tribunal in allowing the depreciation @ 60% on computer peripherals and accessories such as printers, scanners and server etc. In that case, the Tribunal had followed the decision of coordinate Bench of the Tribunal in the case of ITO vs. Samiran Majumdar (2006) 98 ITD 119 (Kol.) and in the case of Expeditors International (India) (P) Ltd. (supra).

19. Respectfully following the aforesaid decision of the Hon'ble Delhi High Court confirming the Tribunal's order, we uphold the order of the learned CIT(A) in

accepting the assessee's claim of depreciation @ 60% on UPS and LAN/WAN. Thus, this ground No. 2 raised by the revenue is also rejected."

Since, the issue contested in the present ground is identical to that of earlier assessment years and no distinguishing facts were pointed out by the Ld. DR.

Ground No. 4 of the Revenue's appeal is dismissed.

37. Before us, Revenue has not pointed to any distinguishing facts of the case in the year under consideration and that of the earlier years nor has placed any material on the record to demonstrate that the order of the coordinate bench in assessee's own for earlier years has been set aside/overruled/stayed by higher judicial forum. In view of the aforesaid facts and following the reasoning of the coordinate bench of the Tribunal in assessee's own case, we find no reason to interfere with the order of the Ld. CIT(A) on this ground and **thus the ground of Revenue is dismissed.**

38. Ground no. 8 is with respect to the deleting the addition of Rs. 2,42,880/- being interest accrued but not credited to Profit and Loss account.

39. During the course of assessment proceedings and on perusing the Profit and Loss Account, A.O. noticed that assessee has not offered interest income from the deposits of Rs. 1.32 crore. The assessee was asked to explain as to why the interest on deposit not to be treated as income. Assessee inter alia submitted that the FDR of Rs. 1.32 crore was "case property" and not the property of the assessee. It was further submitted that the case was pending before the courts and has not attained finality and therefore that no interest income has been considered by the assessee. The submissions of the assessee was not found acceptable to the A.O. A.O. thereafter worked out to the interest on deposit of Rs. 1.32 crore at the interest rate of 1.84% and accordingly worked out interest income at Rs. 2,42,880/- and made its addition.

40. Aggrieved by the order of A.O. assessee carried the matter before Ld. CIT(A). CIT(A) by following the order of his predecessor for A.Y. 2014-15 deleted the addition.

41. Aggrieved by the order of Ld. CIT(A), Revenue is now before us.

42. Before us, Ld. DR supported the order of A.O.

43. Ld.AR on the other hand submitted that the issue raised in the present ground of Revenue is squarely covered in assessee's favour by the decision of Tribunal in assessee's own case for A.Y. 2011-12 order dated 02.11.2022 and decision of Tribunal for A.Y. 2013-14 & 2014-15 order dated 30.09.2022. He pointed out the relevant findings at page 317 of the paper book. He thus supported the order of Ld. CIT(A).

44. We have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to the deleting the addition of Rs. 2,42,880/- being interest accrued but not credited to Profit and Loss Account. We find that identical issue arose in assessee's

own case before the Tribunal in A.Y. 2013-14 & 2014-15. The issue was decided in assessee's favour by the coordinate bench of Tribunal vide order dated 30.09.2021 by observing as under:-

> *49. As regards Ground No. 6 of the Revenue's appeal relating to addition on account of accrued interest on deposits, the Ld. DR submitted that same is identical to that of Ground No. 8 of Revenue's appeal for A.Y. 2013-14. The Ld. DR relied upon the assessment order.*
>
> *50. The Ld. AR submitted that this addition is also made on account of notional interest on advances to Karsan on which the litigation is still pending. The addition was made on the ground that the addition of Rs.6,48,20,000/- was also made as per Ground No. 1. The CIT(A) also deleted the addition on the line of Ground No. 1 that the Hon'ble Courts has already held that the advances given by the assessee to Karsan pending recovery cannot be assessed as income of the assessee. Thus, the issue is identical to Ground no. 1 as the Assessing Officer himself admitted the same and*

addition made by the Assessing Officer is uncalled for and rightly deleted by CIT(A). The issue is also identical to Ground No. 8 of the Revenue's appeal for A.Y. 2013-14.

51. We have heard both the parties and perused the material available on record. This issue is identical to that of Ground No. 8 of revenue's appeal for A.Y. 2013-14 and no distinguishing facts are pointed out by the Ld. DR, hence, Ground No. 6 of the Revenue's appeal is dismissed.

45. Before us, Revenue has not pointed to any distinguishing facts of the case of the year under consideration and that of the earlier years nor has placed any material on the record demonstrate that the order of the coordinate bench of Tribunal in assessee's own case for earlier years has been set aside/overruled/stayed by higher judicial forum. In view of the aforesaid facts and following the reasoning of the coordinate bench of the Tribunal in assessee's own case for earlier years, we find no reason to

interfere with the order of the Ld. CIT(A) on this ground and thus the ground of **Revenue is dismissed.**

46. In the result **appeal of the Revenue is dismissed**

Order pronounced in the open Court on 06.01.2023.

Sd/-	Sd/-
(N.K. CHOUDHARY)	(ANIL CHATURVEDI)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Delhi, Dated 06th January, 2023

NV/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'E' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.