

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'H' BENCH,  
NEW DELHI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER, AND  
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 1022/DEL/2021  
[Assessment Year: 2015-16]

The A.C.I.T.  
Central Circle - 8  
New Delhi

Vs.

M/s Shahi Exports Pvt Ltd  
F - 88, Phase - 1,  
Okhla Industrial Area  
New Delhi

PAN : AAJCS 1175 L

[Appellant]

[Respondent]

Date of Hearing : 14.06.2023  
Date of Pronouncement : 19.06.2023

Assessee by : Shri M.P. Rastogi, Adv

Revenue by : Ms. Sapna Bhatia, CIT- DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the Revenue is preferred against the order of the  
Commissioner of Income Tax [Appeals] - 24, New Delhi dated  
05.03.2021 pertaining to A.Y. 2015-16.

2. The sum and substance of the grievance of the revenue is that the Id. CITA erred in deleting the addition of Rs.17.02 crores received by the assessee as interest reimbursement under Technology Upgradation Scheme [TUFS], treating the same as capital receipt, even though the same constitutes revenue receipt in light of provisions of section 2(24)(xviii) of the Income tax Act, 1961 (hereinafter referred to as 'the Act').

3. Briefly stated, the facts of the case or that the assessee filed its return of income electronically on 25.11.2016, declaring total income of Rs. 2,28,05,11,880/-. Return was selected for limited scrutiny under CASS and, accordingly, statutory notices were issued and served upon the assessee.

4. The assessee is engaged in the business of manufacturing and export of ready-made garments. During the course of assessment proceedings, the Assessing Officer noticed that the assessee has claimed exempt income of Rs. 17,01,94,062/-. The assessee was asked to provide explanation regarding the same.

5. In its reply, the assessee stated that it has received interest subsidy under TUFS.

6. The assessee was further asked to explain what treatment it has given to the interest reimbursement.

7. The assessee filed detailed reply, which reads as under:

*“Regarding your query with regard to “treatment of interest subsidy / grant received by the assessee company in its Profit & loss A/c and Balance Sheet and under which section the assessee had claimed the same as exempt income ”, in this connection, as already submitted during the course of previous submission, however, for your convenience, it is reiterated that the assessee company during the period relevant to period under assessment had received interest subsidy from Ministry of Textiles, Government of India under Technology Up-gradation Fund Scheme (TUFS). The subsidy under the said scheme is provided / granted with the object of improving the overall health of textile industry which contributes significantly to the economy and provide sizeable employment opportunity and therefore, the main purpose of scheme is to provide adequate capital to textile industry at Internationally comparable rates so that major development and modernization program through technology up-gradation be carried out. It is pertinent here to mention that the interest subsidy is not provided to the eligible undertaking to carry out or support its day-to-day operation, but it is for capital expenditure made in modernizing its capital outlay through technology up-gradation, so that the industry could compete with global industries and contribute to the economy.*

*Basically the method of accounting of receiving and treatment of government subsidy / grants in books of accounts is governed by Accounting standard-12 which states:*

*“If the grants are given with reference to total investment in an undertaking towards its capital outlay then the grant so received is deducted from the total cost of the specific assets because the purpose of the grant is to give immediate relief to the eligible industry to meet out its cost of assets, hence the up-front subsidy received in relation to the specific assets has been shown as deduction from the cost of specific assets ” and*

*It further states that “if grants are received over a period of time and its receipts are dependent upon some contingent conditions and further the grant is received in more than one year in relation to an expense, then such grants should be recognized on a systematic basis in Profit & Loss statement over the periods to match them with the related cost which they intended to compensate. Such grants should either be shown separately in Profit & Loss Statement under the Head “Other Income ” or should be deducted in related expense. ”*

*In the instant case also the assessee company had received grant (subsidy) over a period of h time and because its receipts are dependent upon some contingent conditions and moreover, the subsidy has been received in more than one year, therefore, in view of accounting standard-12, the assessee company had recognized the same in its profit & loss statement over the period to match them with the related cost and accordingly had deducted the same from related expense. However, while computing income because*

*the same has been deducted from the related expense, resulting into increase in profit, the assessee had claimed deduction u/s 2(24)(xviii) of the Act. ”*

8. The reply of the assessee did not find any favour with the Assessing Officer who was of the firm belief that the provisions of section 2(24)(xviii) of the Act squarely apply and invoking the same, the Assessing Officer made addition of Rs. 17,01,94,062/-.

9. The assessee agitated the matter before the Id. CIT(A) and strongly contended that section 2(24)(xviii) of the Act has been amended by the Finance Act, 2015 w.e.f. 01.04.2016 and applicable from A.Y. 2016-17 onwards and, therefore, not applicable for the year under consideration.

10. The assessee further furnished the Scheme of Interest Subsidy and explained that the Government recognising the potential of the textile industry and the larger benefits of technological upgradation in the textile industry would result in capacity expansion and modernization which would result in higher employment generation, exports and globalisation of textile trade. It was explained that the TUF Scheme was introduced by the Government to provide interest

subsidy on loan taken for technological upgradation by the units in the textile industry.

11. It was further explained that the purpose of granting subsidy under TUFS by the Ministry of Textiles, Government of India was for overall growth and generation of employment and, therefore, the 'Purpose Test', as laid down by the Hon'ble Supreme Court in the case of CIT Vs. Ponni Sugars & Chemicals Ltd in Civil Appeal No. 5694 of 2008 squarely applies on the facts of the case.

12. After considering the facts and submissions, and referring to various judicial decisions, the Id. CIT(A) was convinced that the ratio laid down by the Hon'ble Supreme Court in the case of Ponni Sugars [supra] squarely applies and held that interest reimbursement received by the assessee is a capital receipt.

13. Before us, the Id. DR strongly supported the findings of the Assessing Officer and vehemently contended that the assessee has failed to explain the utilisation of the subsidy. It is the say of the Id. DR that the assessee itself has admitted categorically that it has not purchased any capital asset. Therefore, it can be safely concluded

that the purpose for which the subsidy has been received has not been explained by the assessee. It is the say of the ld. DR that the ratio laid down by the Hon'ble Supreme Court in the case of Ponni Sugars [supra] has not been satisfied by the assessee on the facts of the case in hand.

14. Per contra, the ld. counsel for the assessee reiterated what has been stated before the lower authorities. It is the say of the ld. counsel for the assessee that the objective and purpose of the Scheme is for larger interest of textile industry and, therefore, the interest subsidy received by the assessee has to be treated as capital receipt. Reliance was placed on various decisions of the Co-ordinate Benches.

15. We have given thoughtful consideration to the orders of the authorities below. We have also the benefit of going through the objectives, financial and operational parameters and implementation mechanism for TUF Scheme in respect of interest subsidy. We find that under the said Scheme, Government recognised that technology upgradation in the textile industry would result in capacity expansion and modernisation which would have direct impact on employment generation, exports and globalisation of textile trade. In order to achieve such objects, TUF Scheme was introduced by the Government

to provide subsidy on loan taken for technological upgradation by the units in the textile industry. We are, therefore, of the considered view that the purpose of the Scheme satisfies the test laid down by the Hon'ble Supreme Court in the case of Ponni Sugars [supra].

16. Considering the facts of the case in totality, we do not find any reason to interfere with the findings of the Id. CIT(A).

17. In the result, the appeal filed by the Revenue n ITA No. 1022/DEL/2021 is dismissed.

**The order is pronounced in the open court on 19.06.2023.**

**Sd/-**

**[SAKTIJIT DEY]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 19<sup>th</sup> JUNE, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	