

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A": NEW DELHI  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1726/Del/2020  
(Assessment Year: 2017-18)

Sahara Infrastructure & Housing Ltd, Sahara India Sadan, 2A, Shakespeare Sarani, Kolkata-700071 (Appellant)	Vs.	ACIT, Central Circle-1, New Delhi  (Respondent)
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**PAN: AABCG2655B**

Assessee by :	Sh. Dinesh Verma, Adv Shri Hardeep Singh, CA
Revenue by:	Shri Kanv Bali, Sr. DR
Date of Hearing	30/10/2023
Date of pronouncement	02/11/2023

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.1726/Del/2020 for AY 2017-18, arises out of the order of the Commissioner of Income Tax (Appeals)-23, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 23/10205/2019-20 dated 21.08.2020 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 08.12.2019 by the Assessing Officer, ACIT, Central Circle-1, New Delhi (hereinafter referred to as 'Id. AO').
2. Though the assessee had raised several grounds of appeal before us, the only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the addition made on account of notional interest in the sum of Rs 7,20,000/- in respect of interest free

loans given to sister concern by the assessee in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The assessee company is engaged in the business of tour operator as a travel agent, transport agent, arrangement of tours & travel facilities to the tourists. The return of income for the Asst Year 2017-18 was filed by the assessee company on 28.3.2018 u/s 139(4) of the Act declaring total loss of Rs 5,43,97,085/-. The Id. AO observed that the assessee has been incurring loss on one hand but on the other hand, had advanced interest free loans to Sahara India Tourism Development Corporation Limited (SITDCL). Accordingly, the Id. AO proceeded to add notional interest at the rate of 12% on the amount advanced of Rs 60 lakhs and made an addition towards notional interest of Rs 7,20,000/- in the assessment. The assessee submitted that this loan to sister concern was given by the assessee company during the Asst Year 2015-16, during which year, the assessee had shown profits in the return and that there were no borrowed funds during that year. The assessee also submitted that the said interest free loan given to sister concern was in the normal course of business and for the purpose of business only as the said sister concern is also engaged in the same tourism industry. This interest free loan of Rs 60 lakhs given in Asst Year 2015-16 was accepted to be meant for business purposes by the Id. AO in Asst Year 2015-16 and no addition towards notional interest was made by the Id. AO. Since there was a loss during the year under consideration i.e in Asst Year 2017-18, the Id. AO proceeded to add notional interest at the rate of 12% and made addition of Rs 7,20,000/- ( $60,00,000 * 12\%$ ). This action of the Id. AO was upheld by the Id. CIT(A) by stating that the loan given to sister concern was not for business purposes. In our considered opinion, we find that the action of the lower authorities in making addition towards notional interest of Rs 7,20,000/- is completely fallacious in view of the following:-

a) The interest free loan was given in Asst Year 2015-16 in which year, the assessee had shown profits and there were no borrowed funds. Hence the interest free loans were given out of own funds of the assessee. This fact is not in dispute before us.

b) The assessee has own funds of Rs 247,53,21,674/- as on 31.3.2017 and Rs 250,43,05,948/- as on 31.3.2016, which are several times more than the interest free loan of Rs 60,00,000/- advanced to sister concern. Hence it could be safely presumed that the interest free loan was given only out of own funds of the assessee and not out of borrowed funds. Hence there is no question of imputing interest on the said loan on a notional basis by the lower authorities.

c) In any case, the loan was given in Asst Year 2015-16 which has been accepted by the Id. AO as meant for business purposes. Once this fact is established, then there is no question of imputing interest on notional basis or disallow the interest paid on borrowed funds, if any, in subsequent years. Reliance in this regard is placed on the decision of Hon'ble Karnataka High Court in the case of CIT vs Sridev Enterprises reported in 192 ITR 165 (Kar).

d) Moreover, the addition towards interest has been made by the lower authorities only on a notional basis which is absolutely baseless forgetting the fact that only real income could be brought to tax. The Id AO has not even bothered to state under what provisions of the Act, this addition towards interest income was made by him. Our view is further fortified by the decision of Hon'ble Allahabad High Court in the case of Jwala Prasad Radha Krishna vs CIT reported in 198 ITR 415 (All) and also on the decision of Hon'ble Gauhati High Court in the case of Highways Construction Co. Pvt Ltd vs CIT reported in 199 ITR 702 (Gau).

4. In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, we hold that the addition made towards notional interest in the sum of Rs 7,20,000/- deserves to be deleted. Accordingly, the grounds raised by the assessee are allowed.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 02/11/2023.

-Sd/-  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 02/11/2023  
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi