

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.801/Bang/2023
Assessment year : 2017-18

Toyota Financial Services India Ltd., No.21/22, Centropolis, First Floor, Richmond Town S.O. Bangalore North, Bangalore – 560 025. PAN: AADCT8494P	Vs.	The Assistant Commissioner of Income Tax, Circle 7(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri G. Vaidehi, CA & Shri Dhiraj R., Advocate.
Respondent by	:	Shri G. Manoj Kumar, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	14.12.2023
Date of Pronouncement	:	09.01.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the DIN & Order No.ITBA/NFAC/S/250/2023-243/1055412333(1) dated 25.08.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18 on the following grounds:-

“Ground No.1: Taxability of interest income from Non-Performing Assets (NPAs)

The Commissioner of Income-tax (Appeals) from the National Faceless Appeal Centre [‘learned CIT(A)’] erred on facts and in law in considering the Appellant’s claim, for giving effect to the Supreme Court judgment relating to taxability of interest income from NPA, as Rs.2,55,45,276 instead of Rs.5,38,33,494.

Ground No.2: Incorrect levy of interest under section 234C of the Act

The learned CIT(A) erred on facts and in law in confirming the levy of interest under section 234C of the Act on assessed income as against the returned income.”

2. The brief facts of the case are that the assessee is a NBFC and filed return of income on 26.03.2018 declaring taxable income of Rs.118,64,97,440. The case was selected for complete scrutiny through CASS and statutory notices were issued to the assessee. During the assessment proceedings, the AO noted that assessee had claimed deduction of Rs.2,55,45,277 as income deferred on NPA as per section 43D of the Act and Rs.60,76,889 as income deferred in earlier year realized as income in books on receipt basis in FY 2016-17 and offered to tax in respect previous year. Similarly, the assessee claimed deduction of Rs.1,44,19,621 as income deferred in earlier year, not considered in books since the related accounts were written off as bad debt during AY 2017-18, but offered to tax in respective previous year. The assessee furnished break-up of this amount, but on verification it was noted that the assessee had not claimed this deduction of Rs.4,60,41,857 in its return. The assessee relied on judgment of Supreme Court in the case of CIT v. Vashisht Chay

Vyapar Ltd., 410 ITR 244 (SC). Since fresh claim was made by the assessee, the same was not accepted by the AO by relying on the judgement of Hon'ble Apex Court in the case of Goetze (India) Ltd. vs. CIT , 284 ITR 323 (SC).

3. The assessee filed appeal before the CIT(Appeals) and filed detailed written submissions. The CIT(A) accepted the claim to the extent of Rs.2,55,45,277. The assessee also raised the issue regarding interest u/s. 234C before the CIT(A), who confirmed the order of the AO. Aggrieved, the assessee is in appeal before the ITAT.

4. After hearing both the sides, perusing the entire material on record and the orders of the lower authorities, we note from para 8.3 & 8.4 of the CIT(Appeals)'s order that he has allowed claim of the assessee to the extent of Rs.2,55,45,277 relying on the case of Vashisht Chay Vyapar Ltd. (supra). The assessee raised the issue that interest income of NPAs amounting to Rs.5,38,33,424 has been offered to tax on accrual basis which has not been actually realized during the year under consideration and therefore this income should be reduced from the computation of total income. The issue raised by the assessee is covered by the judgment of Hon'ble Supreme Court cited by assessee supra. However, there is no observation of the Id. CIT(Appeals) in this regard and therefore for the limited purpose of this issue, we remit the matter to the Id. CIT(Appeals) for consideration of this issue in the light of the Supreme Court judgments cited above for decision as per law, after reasonable opportunity to the assessee. The assessee is also

directed to comply with the notice of hearing and not to seek unnecessary adjournment for early disposal of the case.

5. Ground No.2 on interest u/s. 234C on the assessed income instead of returned income does not require adjudication.

6. In the result, the appeal by the assessee is partly allowed for statistical purposes.

Pronounced in the open court on this 09th day of January, 2024.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,

Dated, the 09th January, 2024.

/Desai S Murthy/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.