

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.170/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2003-04)

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| M/s. Southern Petrochemical Industries Corporation Limited 88, Spic House, Mount Road, Guindy, Chennai-600 032. | बनम / Vs. | Income Tax Officer Corporate Ward-3(1) Chennai-600 034. |
| स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAACS-4668-K | | |
| (पीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थीकी ओरसे/ Appellant by | : | Shri R. Vijayaraghavan & Shri Saroj Kumar Parida (Advocates)-Ld. ARs |
| प्रत्यर्थीकी ओरसे/ Respondent by | : | Shri Nilay Baran Som (CIT) & Shri AR V Sreenivasan (Addl. CIT)-Ld. DRs |

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| सुनवाईकी तारीख/ Date of Hearing | : | 16-10-2023 |
| घोषणाकी तारीख / Date of Pronouncement | : | 09-01-2024 |

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee was heard along with other appeals for various assessment years having common issues. This appeal arises out of the order passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 14.12.2022 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) r.w.s 263 of the Act on 26.12.2008. The grounds taken by the assessee are as under:

1. The order of National Faceless Appeal Centre (NFAC), Delhi / CIT(A) is contrary to law, facts and in the circumstances of the case.
 - 2.1 The CIT(A) / NFAC erred in confirming disallowance of interest and Exchange Fluctuation amounting to Rs.116,27,84,000/-.
 - 2.1 The CIT(A) / NFAC ought to have appreciated that the interest and Exchange Fluctuation were accounted under capital work in progress in the earlier years and charged to the profit and loss account during the current assessment year and should have allowed as revenue expenditure.
3. The CIT(A) / NFAC erred in confirming the disallowance of the written down value of diesel generator set written off in the books of account amounting to Rs.2,02,42,000/-
 - 3.1 The CIT(A) / NFAC ought to have appreciated that the crank shaft is one of the components in DG set, during the assessment year the crank shaft got destroyed in fire and the appellant made an insurance claim and the difference between the carrying values (Rs.290.99 lakhs) and insurance claim was settled for Rs.88.57 lakhs resulted in net loss of Rs.202.42 lakhs is allowable as a revenue expenditure or business loss.
4. The CIT(A) / NFAC erred in confirming disallowance of proportionate interest amounting to Rs.1,54,74,087/- (Rs.24,80,000/- +Rs.1,29,94,087/-).
 - 4.1 The CIT(A) / NFAC ought to have appreciated that the appellant has enough reserve and surpluses to give advances to subsidiaries and group companies due to commercial exigency hence no disallowance on proportionate interest is called for.
5. The CIT(A) / NFAC erred in confirming the disallowance of proportionate interest of Rs.52,27,000/- on the investment in Inter Corporate Deposits (ICDS).
 - 5.1 The CIT(A) / NFAC ought to have appreciated that the appellant has not used any borrowed fund rather the appellant has sufficient reserve and surpluses during the relevant period of investment. The appellant has reported net profit of Rs.2837.26 Lakhs for the assessment year 2000-01 and also carried forward a general reserve of Rs.23924.42 lakhs as on 31.03.2000. As per the cash flow Statement for the year ended 31.03.2000 the net cash available from operating activities amounting to Rs.159.78 crores. Since the investment on ICDS has been made out of own funds no disallowance of proportionate interest is called for.
 - 5.2 The Appellant relies on the decision of Hon'ble Supreme court in the case of CIT Vs Reliance Industries Ltd, reported in 307 CTR 121 (SC).
6. The CIT(A) / NFAC should have deleted the addition of Rs.883.98 lakhs in respect of interest of lower interest actually charged by the Appellant taking into account the CDR package.

As is evident, four issues arise for our adjudication i.e., (i) disallowance of interest & foreign exchange fluctuation loss on project being capital losses; (ii) disallowance of DG set written-off; (iii) disallowance of proportionate interest expenditure; (iv) Addition of interest waiver on Corporate Debt Restructuring (CDR) package.

2. The Ld. AR advanced arguments on impugned issues citing various judicial decisions and also filed written submissions to support the case of the assessee. The revenue also advanced arguments and

filed written submissions in support of impugned order. Having heard rival submissions and upon perusal of case records, our adjudication would be as given in succeeding paragraphs. The assessee being resident corporate assessee is stated to be engaged in manufacturing and marketing of fertilizers, pharma, biotech products and providing engineering services. The assessee was assessed u/s 143(3) on 30.03.2006. However, the assessment was subjected to revision u/s 263 and accordingly, another assessment was framed on 26.12.2008 which, after confirmation by learned first appellate authority, is in further challenge before us. The assessee challenged the validity of revisionary proceedings u/s 263 before this Tribunal which got rejected vide ITA No.937/Chny/2008 order dated 12.12.2019.

3. Interest and Exchange Fluctuations

3.1 The revisionary authority directed Ld. AO to disallow interest and foreign exchange fluctuations of Rs.11627.85 Lacs in terms of the decision of Hon'ble Supreme Court in the case of **Kedarnath Jute Mfg. Co. Ltd. vs. CIT (82 ITR 363)** and **Kalinga Tubes Ltd. (218 ITR 164)**. The Ld. AO noted that this item of expenditure pertained to earlier assessment years and therefore, the same could not be allowed as revenue expenditure in this year. Accordingly, the same was disallowed and added back as per revisionary directions.

3.2 During appellate proceedings, the assessee submitted that interest & foreign exchange fluctuation of capital projects relating to relevant financial year was capitalized along with the cost of the assets in the respective years. The interest and foreign exchange fluctuations relating to funds utilized for general corporate purposes was charged-off to Profit & Loss Account as revenue expenditure in respective years.

Both these components were allowed to the assessee. However, the remaining interest and foreign exchange fluctuation on the borrowed fund was accounted for by the assessee under capital work-in-progress (CWIP) due to allocation of Floating Rates Notes (FRN) funds to the pending projects while the assessee continued its efforts to implement the capital projects and acquisition of assets utilizing FRN funds in the subsequent years also. The details movement of CWIP relating to FRN interest and foreign exchange was also submitted. The said method of accounting was stated to be consistently followed by the assessee for financial years 1996-97 to 2001-02. During this year, the assessee reviewed the feasibility of pending projects / proposal. Due to various business constraints, the assessee could not implement the pending projects / proposals and therefore, decided to write-off entire amount of Rs.11627.84 Lacs which was lying in CWIP account. The assessee contended that the same would be an allowable deduction.

3.3 The Ld. CIT(A) noted that the assessee raised FRN to the tune of \$120 million in the year 1996 which were due for maturity in the year 2003. These funds were to be utilized for financing the import of capital goods for assessee's operations and projects and for general corporate purposes as permitted by Government of India. For the funds utilized for general purpose, the interest and forex fluctuation costs were charged-off as revenue expenditure and the same was allowed also. In respect of import of capital goods, interest and forex fluctuation was carried in CWIP account which had balance of Rs.11627.85 Lacs including interest of Rs.7760.50 Lacs and forex fluctuation of Rs.3867.35 Lacs. This year was the maturity year of FRNs. The assessee reviewed feasibility of different projects and decided not to

undertake certain projects and decided to abandon them. Consequently, the entire amount was charged-off in the revenue account. However, the assessee failed to provide any explanation as to how these funds were utilized since 1996 until AY 2003-04. This aspect was not clarified in the assessment proceedings. Though the assessee filed the details of the abandoned project, however, it had no explanation regarding the steps taken for undertaking the abandoned projects and the status of said projects which were envisaged to be implemented, the nexus of these projects with business of the assessee and reasons for their abandonment. As per the provisions of Sec. 43A, forex fluctuation loss after the acquisition of capital asset was to be added to the cost of acquisition of the capital asset in the year of repayment. Once the project was abandoned, the assessee had charged such capital loss in the Profit & Loss Account which would be nothing but capital loss for the assessee. Therefore, the same would not be allowable to the assessee.

3.4 The substantive findings of Ld. CIT (A) were as under: -

Whether the forex fluctuation loss on the CWIP pertains to the year concerned or to the previous years, the treatment under the Income Tax Act is clear - the forex fluctuation loss after the acquisition of capital asset is to be added to the cost of the acquisition of the capital asset in the year of repayment. While the stated year is said to be the year of repayment, forex fluctuation loss cannot be debited to the P&L A/c and has to be added to the cost of capital assets against which the FRNs were borrowed and said to have been spent. Once the projects were abandoned, the appellant should have shown the accounting of the loss on the capital assets in question, in other words, the capital loss should have been shown.

With respect to the interest on FRNs, three aspects arise: a) if interest is on borrowings against acquisition of capital assets (that being the purpose of the FRNs), the same is again to be capitalized and any loss on abandonment will be capital loss, like in case of forex fluctuation loss b) If the contention is that capital asset is assets in course of projects abandoned are business loss, the nexus to the business operations is not explained (applies to forex losses also) c) even if the nexus is established and the accounting treatment of the losses as business losses is explained, these losses being of previous years cannot be allowed to be debited against the current year concerned.

Thus, the appellant has failed on all three fronts, to justify his claim of write-off of the interest and forex fluctuation loss on FRNs to the P&L A/c and therefore, the addition of the AO is sustained. Accordingly, the appellant's appeal on this ground is dismissed.

Aggrieved as aforesaid, the assessee is in further appeal before us. Our adjudication to the same would be as under.

3.5 From the facts, it emerges that the assessee had borrowed sum of 120 million US \$ through FRNs during the year 1996 towards financing of import of capital goods for its operations and projects and for general corporate purposes as permitted by Government of India. A part of the borrowed funds was used in the projects and a part of the same was used for general corporate purposes. The unallocated portion of the funds was in the company's system with an ultimate objective of purchase of capital goods in the future. The interest & foreign exchange fluctuation of capital projects relating to relevant financial year has been capitalized along with the cost of the assets in the respective year and the same has been allowed to be capitalized. The interest and foreign exchange fluctuation relating to funds utilized for general corporate purposes was also charged-off to Profit & Loss Account as revenue expenditure in respective years and the same has also been allowed. The remaining impugned amount is lying under CWIP account and the same represent interest and foreign exchange fluctuation on the borrowed funds which have not been allocated to any specific projects.

3.6 During AYs 1997-98 to 2002-03, the total foreign exchange loss incurred by the assessee was Rs.18492 Lacs out of which an amount of Rs.7498.52 Lacs has been capitalized based on allocation of funds for capital expenditure. The amount of Rs.6117.57 Lacs has been charged to Profit & Loss Account for funds utilized for general corporate

purposes. The remaining unclaimed amount is Rs.4875.91 Lacs which has been capitalized under CWIP for the purpose of capitalization as and when FRN funds would be utilized for the purpose of purchase of capital goods / expansion schemes. Out of the remaining amount of Rs.4875.91 Lacs, foreign gains have been adjusted to the extent of Rs.1008.55 Lacs and the assessee has claimed net forex fluctuation loss of Rs.3867.35 Lacs.

3.7 Similarly, the interest expenditure during AYs 1997-98 to 2002-03 aggregates to Rs.24123.19 Lacs out of which amount of Rs.3195.02 Lacs has been capitalized with the cost of assets and another amount of Rs.13167.07 Lacs has been charged in various years in Profit & Loss Account as revenue item. The remaining amount of Rs.7760.49 Lacs has been capitalized under CWIP in order to capitalize the same in future projects / expansion schemes.

3.8 In this year, the loans have been liquidated and accordingly, the assessee has charged the residual interest and forex fluctuation loss aggregating to Rs.11627.85 Lacs to the Profit & Loss Account as revenue expenditure. The same is due to the fact that in this year, the assessee has reviewed the feasibility of pending projects / proposal and apparently, due to various business constraints, the assessee has not implemented the pending projects / proposals and accordingly, claimed the deduction thereof. It is clear that with the abandonment of the projects, the amount lying in this account becomes nothing but business loss for the assessee.

3.9 On the given facts, it could be seen that the provisions of Sec.43A would have no applicability since the assessee has not imported any capital asset and there would be no occasion to capitalize the

impugned amount along with the cost of imported assets. What remains in the account is nothing but a business loss for the assessee which would be an allowable loss incurred in ordinary course of business. How the funds have been utilized in earlier years would not have much relevance and would not have any bearing on the claim of the assessee in this year. It is not the case that the funds were obtained for non-business purposes. The ratio of decision of Hon'ble High Court of Madras in the case of **B. Nagi Reddy vs. CIT (199 ITR 451)** would apply wherein it has been held that the cost of project given up by the assessee would be an allowable expenditure on commercial expediency. Similar is the decision of Hon'ble Court in **M/s Chemplast Sanmar vs. ACIT (TCA NO.859 of 2008 dated 07.08.2018)** wherein the assessee charged expenditure incurred on abandoned projects in Profit & Loss Account which was held by authorities to be capital losses. However, the Hon'ble Court, distinguishing the decision in the case of **Eid Parry (India) Ltd. (257 ITR 253)**, observed that there may be several permutations and combinations that may arise for determining whether the expenditure is revenue or capital and each case must be dealt with on the broad principles as accepted by various courts. The Hon'ble Court further held that the unity of control, management and common fund is the decisive test and not the nature of two lines of business. Finally the issue was decided in assessee's favor and the expenditure was allowed as revenue expenditure. Respectfully following the ratio of these decisions, we direct Ld. AO to delete the impugned disallowance and allow the expenditure as claimed by the assessee. The alternative argument of Ld. AR that the

impugned amount may be allocated to other projects has been rendered infructuous. The grounds of appeal stand partly allowed.

4. Diesel Generator (DG) Set written-off

4.1 The assessee wrote-off an amount of Rs.202.42 Lacs under this head and claimed the same as revenue expenditure. The revisionary authority viewed the loss as 'capital loss'. The assessee submitted that the claim was made as per the provisions of Sec. 32(1)(iii). However, rejecting assessee's submissions, the same was disallowed by Ld. AO.

4.2 It transpired that crankshaft was one of the components in DG Set. The crankshaft got destroyed in fire and insurance claim of the Rs.88.57 Lacs was received as against carrying value of Rs.290.99 Lacs. The differential of the two i.e., Rs.202.42 Lacs was claimed as revenue expenditure as repair to machinery. The assessee submitted that replacing a part of the machinery would be revenue expenditure. The revisionary authority noted that crankshaft was part of DG set which form part of block of asset. The block did not cease to exist even after taking into effect insurance claim as received by the assessee. The assessee was not power generating company. The provisions of Sec. 32(1)(iii) would apply only when the asset is demolished / destroyed / sold / discarded and the money payable in that respect is short of WDV as held by Hon'ble Delhi High Court in **Zoom Communication P. Ltd. (ITA No.07/2010 dated 24.05.2010)**. The said fact was not demonstrated by the assessee. The written down value (WDV) was still outstanding and its value was higher than the money spent by the assessee in replacing the component. Therefore, the claim was rejected by Ld. CIT(A) against which the assessee is in further appeal before us.

4.3 The undisputed position that emerges is that the crankshaft is part of DG set which forms part of block of asset. The provisions of Sec. 32(1)(iii), as rightly held by Ld. CIT(A), are not applicable since the asset has not been demolished / destroyed / sold / discarded. The block of asset still exists in the books of accounts. Therefore, the alternative plea of claim of depreciation is acceptable. The Ld. AO is directed to grant depreciation in accordance with law on block of asset. The assessee is directed to provide the requisite computations. The ground stand partly allowed.

5. Disallowance of proportionate interest u/s 36(1)(iii)

5.1 The revisionary authority flagged the issue of disallowance of proportionate interest since certain interest free advances were made to sister concerns. The revisionary authority directed Ld. AO to examine whether the amounts advanced to various sister concerns were out of commercial expediency or not. Another direction was to disallow proportionate interest disallowance of Rs.24.80 Lacs corresponding to the interest credit of Rs.139.96 Lacs on the ground that interest disallowance was to be computed by considering gross interest expenditure.

5.2 It transpired that in an assessment framed u/s 143(3), Ld. AO computed disallowance by taking net interest expenditure i.e., after adjusting the interest income of Rs.139.96 Lacs credited by the assessee. As per revisionary directions, Ld. AO enhanced the same by Rs.24.80 Lacs. During appellate proceedings, the assessee relied on the decision of Hon'ble Supreme Court in the case of **ACG Associated Capsules Pvt. Ltd. (18 Taxmann.com 137)** to plead that only net interest expense was to be considered for the purpose of disallowance.

However, Ld. CIT(A) confirmed the disallowance by considering the decision of Tribunal for AYs 2005-06 & 2006-07, ITA No.961 & 962/Mds/2011 dated 09.02.2017 rendered in the context of challenge to revisionary jurisdiction u/s 263. The bench held that the interest paid and claimed as deduction in the computation of profit and gains of the business could not be set-off against interest received under the head 'income from other source'.

5.3 It also transpired that the assessee advanced sum of Rs.16.78 Crores to its sister concern viz. M/s SPEL semiconductor Ltd. Pursuant to revisionary directions, Ld. AO computed disallowance of Rs.129.94 Lacs rejecting assessee's reliance on the decision of Hon'ble Supreme Court in the case of **S.A. Builders (288 ITR 1)** wherein it was held that advancing loans to sister concerns for commercial expediency would be business expenditure. Another argument was that the assessee claimed only net interest expenditure after crediting interest income of Rs.139.96 Lacs and therefore, the question of impugned disallowance of proportionate interest expenses would not arise. The same was also rejected.

5.4 During appellate proceedings, the assessee submitted that the advances were given to sister concern over a period to meet its debt obligation and to meet capital expenditure. The loans granted in all the years were tabulated. The assessee also submitted that it had sufficient interest free funds to advance these loans and no new advances were given during this year. From assessee's tabulation as aforesaid, it could be seen that the loans were granted during financial years 1994-95 to 1996-97. The Ld. CIT(A) observed that during financial years 1995-96 and 1996-97, the assessee did not have sufficient non-interest-bearing

funds and therefore, the disallowance was justified. Further, the submissions of the assessee do not provide any business nexus or commercial expediency in lending these amounts. Therefore, the disallowance was upheld against which the assessee is in further appeal before us.

5.5 So far as the advance of Rs.16.78 Crores as given to sister concern is concerned, it could be seen that the funds have been advanced by the assessee in as early as financial years 1994-95 to 1996-97. The quantum of advances given by the assessee vis-à-vis net own funds available with the assessee, as tabulated by Ld. AR, are as under: -

| Financial Year | Advances to SPEL | Share Capital | Reserve & Surplus excluding Revaluation Reserve | Net Own Fund |
|-------------------------|------------------|---------------|---|--------------|
| 1994-95 Page- 25 | 10.00 | 9,704.77 | 40,428.87 | 50,133.64 |
| 1995-96 Page-29 | 1,571.00 | 9,704.77 | 44,734.16 | 54,438.93 |
| 1996-97 Page- 33 | 97.00 | 10,004.77 | 48,724.48 | 58,729.25 |
| | 1678.00 | | | |

It could also be seen that no new advances have been made during this year. It is trite law that when mixed funds are used in the business, a presumption would arise in assessee's favor that the interest free funds have been utilized to make the investments unless the nexus of borrowed funds vis-à-vis those investments is establish by Ld. AO. In the absence of such an exercise, the impugned disallowance could not be sustained in the eyes of law. The ratio of decision of Hon'ble High Court of Madras in the case of **CIT vs. Hotel Savera (239 ITR 795)** would apply wherein it has been held that when the mixed funds are used, no interest disallowance is called for. In the decision of **Reliance**

Industries Ltd. (102 Taxmann.com 52), Hon'ble Apex Court has held that in case interest free funds as available with the assessee are sufficient to meet the investment made in subsidiaries, the deduction of interest expenditure would be allowed to the assessee. Respectfully following the same, the impugned disallowance of Rs.129.94 Lacs stand deleted.

5.6 Regarding the second question i.e., whether gross interest is to be considered or net interest is to be considered while computing the interest disallowance, we find that the assessee has claimed only net expenditure in the Profit & Loss Account., The interest income is not separately assessed as 'Income from other sources' which would mean that the interest income has business nexus. In such a case, the ratio of decision of Hon'ble Supreme Court in the case of **ACG Associated Capsules Pvt. Ltd. (18 Taxmann.com 137)** would apply. The interest disallowance has to be computed by taking net interest expenditure only. Therefore, the additional disallowance of Rs.24.80 Lacs as made by Ld. AO stand deleted. The corresponding grounds raised by the assessee stand allowed.

6. Disallowance of interest on inter-corporate deposits

6.1 The assessee placed Inter-Corporate deposits (ICD) of Rs.675 Lacs during financial year 1999-2000 and submitted that the same were out of internal accruals and no borrowed funds were utilized for such purposes. In support, the assessee produced annual report of financial year 1999-2000 wherein assessee reported net profit of Rs.2837.26 Lacs and carried general reserve of Rs.23924.42 Lacs as on 31.03.2000. The internal cash generation from operating activities was

stated to be Rs.15977.71 Lacs. It was thus submitted by the assessee that ICDs were funded out of own funds.

6.2 However, Ld. AO noted that in that year, the assessee had secured and unsecured loans of Rs.211753.93 Lacs. The borrowed funds during AY 2003-04 stood at Rs.231703.47 Lacs and therefore, there was an overall increase in quantum of borrowed funds. Accordingly, it was held by Ld. AO that ICDs were placed out of borrowed funds and therefore, he computed proportionate interest disallowance on borrowed capital which resulted into disallowance of Rs.52.27 Lacs. The Ld. CIT(A) upheld the disallowance against which the assessee is in further appeal before us.

6.3 We find that the ICD has been placed during financial year 1999-2000 when the funds position, as tabulated by Ld. AR, was as under: -

(Rs. in Lakhs)

| Financial Year | ICD to Customers | Share Capital | Reserve & Surplus excluding revaluation reserve | Net Own Fund |
|----------------------|------------------|---------------|---|--------------|
| 1999-00 (Page-42) | 675 | 14054.77 | 51259.78 | 65314.55 |

We find that own funds as available with the assessee are quite sufficient to meet the quantum of ICDs. Further, in that year also, the assessee has used mixed funds. The observation of Ld. AO that there was increase in borrowed funds during AY 2003-04 has no relevance since the ICDs were placed by the assessee during financial year 1999-2000 and it was impossible to make investment in 1999-2000 out of funds borrowed in subsequent years. Further, the nexus of borrowed funds with the ICDs have not been established by Ld. AO. Therefore, the stand of Ld. AO could not be upheld. Applying the same reasoning

as given in para 5.5 with respect to interest disallowance, we delete the impugned disallowance and allow the corresponding grounds raised by the assessee.

7. Disallowance of interest relief given by the bankers.

7.1 It transpired that the restructuring of assessee's debt portfolio under Corporate Debt restructuring mechanism (CDR) was implemented during this year. Consequently, there was interest relief of Rs.883.98 Lacs to the assessee from various banks and financial institutions under the CDR mechanism. The same was reported by Statutory Auditor. However, the assessee requested not to assess the interest relief since the same was quantified by statutory auditor as a part of required disclosure to the shareholders and in as much as the assessee had accounted the interest expenditure at the reduced rates only.

7.2 However, Ld. AO held that the interest relief was benefit arising out of business which is assessable to tax u/s 28(iv) as per ruling of Hon'ble Supreme Court in the case of **CIT vs. T.V. Sundaram Iyengar & Sons Ltd. (222 ITR 344)** and accordingly, he made impugned disallowance.

7.3 During appellate proceedings, the assessee reiterated that the assessee accounted the interest at reduced rates only i.e., the assessee already considered the impugned interest relief in the books. The interest at normal rates was stated to be Rs.22053 Lacs. After adjusting, interest relief of Rs.4110.36 Lacs, the interest at reduced rates was Rs.17942.64 Lacs and therefore, the question of adding the interest waiver would not arise. Concurring with the same, Ld. CIT(A) directed Ld. AO as under: -

Evidently, the appellant has not provided the required documents with respect to what was the original rate of interest and the interest relief in the CDR package, in the appeal proceedings. Granting further time in this appeal pending for almost 13 years is not possible. Therefore, the AO is directed to determine, what was the interest payable in the year concerned at that point of time (before 31/03/2003) in view of the CDR package approved and whether the appellant debited that amount only, as claimed. If the applicant has claimed interest beyond the amount in the CDR package, the same to be brought to tax u/s 36(1)(iii).

Aggrieved as aforesaid, the assessee is in further appeal before us.

7.4 From the facts, it emerges that the assessee has accounted interest expenditure at reduced rates only and the separate reporting made by Auditor is part of statutory disclosure only. The Ld. CIT(A) has well appreciated the plea of the assessee and observed that the assessee did not provide the requisite documents and computations to support its stand. Accordingly, Ld. AO has been directed to verify the claim of the assessee. Therefore, no further directions are required in the matter. The directions given in the impugned order are quite apt and sufficient. The corresponding grounds stand dismissed.

Conclusion

8. In the result, the appeal stands partly allowed in terms of our above order.

Order pronounced on 9th January, 2024

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :09-01-2024
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. भागीयप्रतिनिधि/DR
5. गार्डफाईल/GF