

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E" : NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 3044/DEL/2023
Assessment Year: 2020-21**

ACIT, Circle-16(1), New Delhi.	<u>Vs</u>	National Highways & Infrastructure Development Corporation Limited, 3 rd Floor, PTI Building, 4 Parliament Street, New Delhi-110001.
APPELLANT		RESPONDENT
Assessee represented by	Shri Piyush Kaushik, Adv. & Shri Sanjay Goel, CA; & Akash Bansal, CA	
Department represented by	Sh. Subhra Jyoti Chakraborty, CIT(DR)	
Date of hearing	07.02.2024	
Date of pronouncement	08.02.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the Revenue, is directed against the order of the learned Commissioner of Income-tax (Appeals), dated 01.09.2023, pertaining to the assessment year 2020-21. The Revenue has raised following grounds of appeal:

"1. Whether in the facts and circumstances of the case, Ld. CIT(A) was justified in deleting the addition of Rs. 159,28,36,080/- made on account of interest income generated on the funds received from GOI ignoring the fact that the assessee has not included the same in its ITR as income from interest as per provision of section 194A of the Income Tax Act?"

2. *Whether in the facts and circumstances of the case, Ld. CIT(A) was justified in deleting the addition of Rs. 159,28,36,080/- made on account of interest income generated on the funds received from GOI ignoring the fact that tax is attracted at the point when the income is earned and taxability of income is not depended upon its destination or the manner of its utilization.”*
2. At the outset learned counsel for the assessee contended that the issue is squarely covered by the decision of the Coordinate Bench in assessee’s own case for A.Y. 2016-17 to 2018-19 in ITA Nos. 49, 50 & 132/Del/23 dated 06.11.2023.
3. The only effective ground raised by the Revenue is against the deletion of addition of Rs. 159,28,36,080/- made by the AO.
4. Learned DR supported the assessment order and submitted that the Hon’ble Supreme Court in the case of Tuticorin Alkali Chemicals Vs. CIT 141 CTR SC 387 has categorically ruled that the interest earned by the assessee would be subjected to income tax under the head income from other sources and it is not the hand which ultimately receives such income and therefore the AO was justified in making the addition.
5. We have heard rival submissions and perused the material on record. We find that under the identical facts the Coordinate Bench of the Tribunal in assessee’s own case for A.Y. 2016-17 to 2018-19 rendered in ITA Nos. 49, 50 & 132/Del/23, in paras 14 & 15 of its order dated 06.11.2023 has observed as under:

“14. Therefore, considering the facts of case and respectfully following the judicial pronouncements relied upon by the appellant company as well as the judgement of Hon'ble Jurisdictional High Court in the case of Delhi State Industrial Development [supra] and the decision of ITAT in the case of Council of Handicrafts Development Corporation (Supra), the Id. CIT(A) held that the interest income generated on funds owned by GoI is not an income in the hands of the appellant company but it is the income of GoI and accordingly it is not required to be taxed in the hands of the Appellant Company. Therefore, the Id. CIT(A) held that the action of the AO treating

the interest income in the hands of the appellant is not sustainable on the facts of the case as well as the law.

15. Before us, it has been submitted the "Entire interest earned" has already been deposited in to the consolidated fund of India by way of challans. Since the entire amounts received as interest stands deposited in the consolidated fund of India, we hold that no addition is called for in the hands of the assessee. For the limited purpose of reconciliation of the interest earned and deposited in the CFI, we direct the assessee to furnish the entire details of receipt of interest income earned, TDS deducted and the total amounts deposited in CFI before the AO in a consolidated statement, which the AO shall verify and accord the benefit."

5.1 We, therefore, taking a consistent view remit this matter to the file of the AO to verify the correctness of the claim of the assessee that entire interest income was deposited in the Government Account and decide the issue in the light of the aforementioned binding precedent. Grounds raised by the Revenue are allowed for statistical purposes.

6. Appeal of the Revenue is allowed for statistical purposes.

Order pronounced in open court on 8th February, 2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI