आयकर अपीलीय अधिकरण "बी" न्यायपीठ चेन्नईमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, CHENNAI

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

1. आयकरअपीलसं./ ITA No.730/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2010-11)
&
2. आयकरअपीलसं./ ITA No.737/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2011-12)
&
3. आयकरअपीलसं./ ITA No.754/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2012-13)

M/s. Express Publications (Madurai) P. Ltd. C/o. Sri T.N. Seetharaman, Advocate 384 (Old No.196) Lloyds Road, Chennai-600 086.	बनाम/ Vs.	**DCIT** Corporate Circle-II(1) Chennai.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. **AAACI-0842-D**		
(अपीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)

&

4. आयकरअपीलसं./ ITA No.1219/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2012-13)

DCIT Corporate Circle-II(1) Chennai	बनाम/ Vs.	**M/s. Express Publications (Madurai) P. Ltd.** C/o. Sri T.N.Seetharaman, Advocate 384 (Old No.196) Lloyds Road, Chennai-600 086.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. **AAACI-0842-D**		
(अपीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)

अपीलार्थी कीओरसे/ **Assessee by**	:	Shri T.N. Seetharaman (Advocate)- Ld.AR
प्रत्यर्थीकीओरसे/**Revenue by**	:	Shri D. Hema Bhupal (JCIT)-Ld. DR

सुनवाई की तारीख/**Date of Hearing**	:	20-03-2024
घोषणा की तारीख /**Date of Pronouncement**	:	27-03-2024

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. The assessee is in further appeal for Assessment Years (AY) 2010-11 to 2012-13 whereas the revenue is in further appeal before us for AY 2012-13. The facts as well as issues are stated to be recurring in nature. First, we take up assessee's appeal for 2010-11 which arises out of an order of Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 19-05-2023 in the matter of an assessment framed by Ld. Assessing Officer (AO) u/s.143(3) on 13-03-2013. The assessee has filed concise grounds on 28-11-2023 which read as under: -

Disallowance under section 36(1)(iii)

1. The Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC) erred in sustaining the addition / disallowance of Rs.96,49,617/- made in the assessment out of interest paid alleging diversion of interest bearing borrowals to the appellant's Group Companies invoking section 36(1)(iii) of the Act.

2. The Commissioner (Appeals) erred in not taking proper note of the information / clarification set out in the Grounds of Appeal and Written Submissions dt.07.07.2022 / 20.12.2022 and the following judicial decisions cited in the present appellant's favour:

   i) S.A.Builders Limited vs. CIT (2007) 288 ITR 1 (SC)
   ii) CIT (LTU) vs. Reliance Industries Ltd (2019) 410 ITR 466 (SC)
   iii) CIT vs. Hotel Savera (1999) 239 ITR 795 (Mad)

3. The appellant submits that it had interest free funds to the tune of Rs.60 Crores against the Balance due from the Group Companies of Rs.7,32,75,428/- and on such facts / as per judicial decisions it must be presumed that the moneys due were relatable to interest free funds. On the aforesaid reasons and grounds it is submitted that the said addition/ disallowance of Rs.96,49,6177- out of interest paid deserves to be deleted.

Relaunch Expenses

4. The Commissioner (Appeals) NFAC erred in upholding the Assessing Officer's action in treating Rs.4,64,31,000/- described by the appellant as "Relaunch Expenses" as capital expenditure and as intangible asset allowing depreciation (25% of Rs.4,64,31,000/-) thereby disallowing Rs.42,95,250/- in computing Income.

5. The Assessing Officer/ Commissioner (Appeals) erred in going by the nomenclature and treatment by the appellant in its books without seeing that the expenses incurred such as printing charges, telecasting, hoardings / banners, music concerts, sound and light

shows, hall hire charges, travelling expenses, cost of complimentary items, cost of CDs distributed and other promotional activities, all of which were expenditure of a revenue nature incurred in the ordinary course of the appellant's business and are allowable in computing the appellant's income of the year.

6. The appellant submits that in holding that the appellant's contention is not tenable the Commissioner (Appeals) has been misled by the Assessing Officer's view that by incurring the expenditure the appellant was trying to build up its brand value when the fact is that the appellant's publication (The New Indian Express) was already a well-established well known newspaper; further the lengthy reference in the assessment order regarding the dispute over the publication rights / logo / masthead / territory relate back to the period 1992 to 1997 and have no connection whatsoever with the expenditure incurred during this year viz., accounting year 2009-10 (A.Y 2010-11),

7. The authorities below failed to see that the appellant's treatment of the expenditure on spread over basis finds full support in the judgment of the Supreme Court in Madras Industrial Investment Corporation Ltd vs. CIT (1999) 225 ITR 802 (SC) followed by the Ahmedabad B Bench of the Tribunal in ACIT vs. Amtrex Applications Ltd (2005) 94 TT J (Ahd) 396 and order of the ITAT, Delhi Bench 'A' in ACIT vs. Medicamen Biotech Ltd reported in (2005) 1 SOT 347 (Delhi).

8 .In the light of the facts of the case and the judicial decisions cited the appellant prays that the Hon'ble Tribunal be pleased to allow the expenditure of Rs.1,59,03,000/- as claimed or, in the alternative, allow the entire expenditure of Rs.4,64,31,000/- in determining the income of the year.

9. The Commissioner (Appeals) NFAC erred in dismissing the claim for full and proper credit for tax deducted at source - vide Para 6.5@ Page 25 of the Appellate Order.

10. The appellant submits that while it had claimed tax credit of Rs.36,28,815/- as per Form 26AS the assessing officer has allowed credit of Rs.21,25,187- only; in fairness, the Commissioner (Appeals) should have given a direction to the Assessing Officer to allow proper credit after verification.

As is evident, three issues fall for our consideration i.e., (i) Disallowance of interest expenditure u/s 36(1)(iii); (ii) Disallowance of relaunch expenses; & (iii) Short Credit of TDS.

2. The Ld. AR filed issue-wise chart along with supporting documents and case laws. The Ld. AR made arguments supporting the case of the assessee. The Ld. Sr. DR, on the other hand, supported the assessment framed by Ld. AO. Having heard rival submissions and upon perusal of case records, our adjudication would be as under. The assessee being resident corporate assessee is stated to be engaged in printing and publication of newspapers and periodicals. The assessee is stated to be one of the leading publishers of newspaper and periodicals.

3. Disallowance u/s. 36(1)(iii)

3.1 The Ld. AO, upon perusal of financial statements, observed that the assessee had outstanding loans of Rs.135.61 crores and incurred interest expenditure of Rs.17.85 crores. At the same time, the assessee advanced interest free loans to group concerns for Rs.732.75 Lacs as under:-

i)	Secured loans	Rs.65,15,53,568
ii)	Unsecured loans	Rs.67,30,91,155
iii)	Long term creditors	Rs. 3,15,16,000
	Total	Rs.1,35,61,60,723

i)	M/s.Siddarth Media Holdings P. Ltd	Rs.1,65,00,000
ii)	M/s.Express Network Pvt.Ltd	Rs.5,66,93,720
iii)	M/s.Express Pub. (Chennai) Ltd.	Rs. 77,760
iv)	Dinamani Publications Ltd.	Rs. 3,948
	Total	Rs.7,32,75,428

3.2 The Ld. AO was of the opinion that the loan was diverted for non-business purposes and accordingly, he proceeded to make interest disallowance u/s 36(1)(iii). The assessee submitted that advances were not out of borrowed money and there was no correlation between interest bearing borrowings and loans advanced by the assessee. However, rejecting the same, Ld. AO computed proportionate interest disallowance of Rs.96.49 Lacs and added the same to income of the assessee.

3.3 During appellate proceedings, the assessee reiterated that there was no correlation between interest bearing borrowings and amounts advanced. Further, the assessee had non-interest bearing funds to the tune of Rs.60 Crores. The assessee has both interest bearing and non-interest bearing funds and there is no reason to presume that interest bearing funds were diverted to group companies. The assessee also

relied on the decision of Hon'ble Supreme Court in the case of **M/s S.A. Builders Limited vs. CIT (2007) 288 ITR 1 (SC);** the decision **CIT (LTU) vs. Reliance Industries Ltd (2019) 410 ITR 466 (SC)**; & the decision of Hon'ble Madras High Court in **CIT vs. Hotel Savera (1999) 239 ITR 795 (Mad)**. The assessee emphasize that in a case where the assessee has common funds then in such a case, in the absence of any material to indicate that the assessee has advanced monies out of funds borrowed for business purposes, the presumption would be that the moneys advanced came only out of its own funds. However, Ld. CIT(A) chose to confirm the disallowance against which the assessee is in further appeal before us.

3.4 Upon perusal of assessee's financial statements, it could be seen that the assessee uses mixed funds for the purpose of its business. The Share capital and free reserves are Rs.217.20 Crores whereas loan funds are to the extent of Rs.135.61 Crores. It is also seen that the secured loans are for specific purposes i.e., project loans, vehicle loans etc. only and the same could not be diverted for other purposes. In such a situation, unless the nexus of borrowed funds vis-à-vis the loans advanced by the assessee is established by Ld. AO, a presumption could be drawn in assessee's favour that the advances were funded out of own funds and not out of borrowed funds. We find that no such exercise has been carried out by Ld. AO and therefore, it was to be presumed that funds were advanced first out of interest free funds available with the assessee. This is as per the decision of Hon'ble Supreme Court in the case of **CIT Vs. Reliance Industries Ltd. (supra).** The decision of Hon'ble Madras High Court in **CIT vs. Hotel Savera**

(1999) 239 ITR 795 (Mad) also supports this view. Therefore, we delete the impugned disallowance and allow corresponding grounds raised by the assessee. This issue arises in assessee's appeal for AY 2011-12 also. Facts being pari-materia the same, the corresponding grounds raised in AY 2011-12 also stand allowed accordingly.

4. Relaunch expenses:

4.1 The assessee incurred relaunch expenses of Rs.464.31 Lacs and in its books of accounts, treated the same as deferred revenue expenditure. The assessee claimed expenditure to the extent of 1/3rd in each of the year. The expenditure so incurred by the assessee represent expenditure incurred by the assessee on its flagship English daily "The New Indian Express" with new look and contents which was well received by the public. It was also submitted that the expenses were incurred on telecasting, hoarding, music concerts, branding and other promotional activities and that the relaunch was part of the process of implementing a strategy to completely overhaul its operations and embark on a high growth path. Finally, the assessee stated that the business makeover includes substantial improvement in readership rankings, brand build-up and efficiency enhancement.

4.2 On the basis of these facts, Ld. AO held that the assessee was trying to build up its brand value which endures for an extended period of time. It would be essential to look into the importance of brands and brand value. Brands are psychology and science brought together as a promise mark as opposed to a trademark. Products have life cycles but brands outlive products and convey a uniform quality, credibility and experience and they are valuable. Building brands builds incredible value

for entities and it is not just about a product and a name. Though the assessee has stated that the expenditure was incurred only for the purpose of relaunch of the new look newspaper, however, the assessee himself treated the same to be deferred revenue expenditure. Moreover, the masthead of the newspaper was changed in 2008 and all the expenditure was incurred to create an awareness of new masthead or logo.

4.3 The genesis of this desire could be traced to the litigation between the assessee and M/s. Indian Express Ltd. It could be seen that Indian Express Newspapers (Bombay) Limited, which later came to be named as Indian Express Newspapers (Mumbai) Ltd. (IENML) founded by late Shri Ramnath Goenka, was publishing a number of newspapers, including its flagship newspaper "Indian Express". After death of Shri Ramnath Goenka on 05-10-1991, there were numerous litigations amongst his heirs and a decree was passed by Hon'ble Madras High Court on 16-04-1997 in terms of the settlement reached. This settlement was modified and IENML became the absolute owner of the registered titles of the newspapers and magazines which it was publishing and the assessee was not to use or adopt any of those titles, except in five southern States. The assessee was permitted to use the expression "New Indian Express" for publication of an English daily newspaper in those states. Under the first agreement the name "New Indian Express" could be used by assessee to publish an English Language daily subject to the condition that the expression "New" was on the same line and of the same size wherever the title "New Indian Express" appeared. The assessee received non-compete and forbearance capital fees of Rs.56

Crores. It was also agreed between the parties to the agreement that the expression "New" need not be of the same size and in the same line as "Indian Express" provided the expression "New" was legible to the naked eye. In consideration of the aforesaid amendments, IENML paid an additional sum of Rs.5 Crores to assessee. Thus, according to IENML, assessee permitted to use the expression "New Indian Express" only for publication of an English language daily newspaper in the specified five southern states and specified Union Territories and for no other purpose or any other area or territory. What the assessee was seeking to do now was to create a brand value of its own which would be commercially important in future. The publicity campaign so undertaken by the assessee was to generate brand recall among the public. These expenses were therefore, for creating an asset of enduring nature and as such capital in nature Therefore, deferred revenue expenditure of Rs.159.03 Las was disallowed and the entire amount spent was treated as an intangible asset which would be eligible for depreciation.

4.4 During appellate proceedings, the assessee, inter-alia, relied n the decision of Hon'ble Supreme Court in the case of **Madras Industrial Investment Corporation vs. CIT (225 ITR 802)** and various other decisions. However, the Ld. CIT(A) confirmed the stand of Ld. AO against which the assessee is in further appeal before us.

4.5 From the facts, it emerges that the assessee has undertaken publicity campaign and incurred relaunch expenses of Rs.464.31 Lacs. In the books of accounts, the assessee has treated the same as deferred revenue expenditure and claimed expenditure to the extent of 1/3rd in each of the year. The expenditure so incurred by the assessee represent

expenditure incurred by the assessee on its flagship English daily "The New Indian Express" with new look and contents. As a part of relaunch activities, the expenses have been incurred on telecasting, hoarding, music concerts, branding and other promotional activities. However, in our considered opinion, such an activity has not enlarged the profit making apparatus of the assessee. The assessee has not ventured into any new line of business rather it is seeking growth in the existing line of business. Further, the nature of the expenditure would show that it is substantially in the nature of revenue expenditure though the benefit of the same may have accrued to the assessee over several years. Nevertheless the said expenditure could not be branded as capital expenditure merely on account of the fact that the benefit would flow in more than one year.

4.6 The Hon'ble Supreme Court in the case of **Empire Jute Co. Ltd. (3 Taxman 69)** held that there may be cases where expenditure, even if incurred for obtaining advantage of enduring benefit, may, nonetheless, be on revenue account and the test of enduring benefit may break down. It is not every advantage of enduring nature acquired by an assessee that brings the case within the principle laid down in this test. What is material to consider is the nature of the advantage in a, commercial sense and it is only where the advantage is in the capital field that the expenditure would be disallowable on an application of this test. If the advantage consists merely in facilitating the assessee's trading operations or enabling the management and conduct of the assessee's business to be carried on more efficiently or more profitably while leaving the fixed capital untouched, the expenditure would be on revenue

account, even though the advantage may endure for an indefinite future. The test of enduring benefit is, therefore, not certain or conclusive test and it cannot be applied blindly and mechanically without regard to the particular facts and circumstances of a given case.

4.7 We find that the ratio of aforesaid decision squarely applies to the facts of present case before us. The assessee has not enlarged its profit making apparatus and it seeks improvement in the existing line of business only. It could not be said that the assessee has acquired enduring advantage in capital field. Therefore, we direct Ld. AO to accept the claim of the assessee. In other words, the expenditure claimed by the assessee to the extent of 1/3rd would be allowable to the assessee. The depreciation as allowed to the assessee shall stand reversed. The corresponding ground stand allowed accordingly.

4.8 This issue arises in assessee's appeal for AYs 2011-12 and 2012-13 also. Facts being pari-materia the same, the corresponding grounds raised in those years stand allowed accordingly.

5. Short Credit of TDS

In this ground, the assessee merely seeks correct TDS credit. It has been submitted that the assessee has claimed TDS credit of Rs.36.28 Lacs as per Form 26AS whereas Ld. AO has allowed credit of Rs.21.25 Lacs only. We direct Ld. AO to allow correct TDS credit in accordance with law. This ground stand allowed for statistical purposes.

6. The assessee's appeal for AY 2010-2011 stand allowed in terms of our above order.

7. Assessment Year 2011-12

The issue of interest disallowance and relaunch expenses have already been decided by us at appropriate places in AY 2010-11. The remaining grievance of the assessee is (i) Disallowance u/s 14A; (ii) Disallowance of prior period items. (iii) Disallowance of late payment of Employee's contribution to PF / ESI. The same are adjudicated as under.

8. Disallowance u/s 14A

8.1 In this year, Ld. AO made interest disallowance u/s 36(1)(iii) and also made another disallowance u/s 14A. It was observed that the assessee made investments of Rs.32.64 Corers in related concerns. The investments were capable of earning exempt income. Therefore, disallowance u/s 14A would be attracted. The assessee submitted that all the investments were existing investment and no expenditure was incurred in respect of these investments. However rejecting the same, Ld. AO computed indirect expense disallowance u/r 8D(2)(iii) for Rs.16.33 Lacs, being 0.5% of average investments. The Ld. CIT(A), considering the explanation to Sec.14A, as introduced by Finance Act 2022, confirmed the disallowance The said explanation provided that disallowance would be attracted even if no income has accrued to the assessee.

8.2 It is the submission of Ld. AR that the assessee has not earned any exempt income during the year. We find that this issue is covered in assessee's favor by the decision of Hon'ble High Court of Madras in the case of **CIT vs. Chettinad Logistics P. Ltd. (80 Taxmann.com 221)** holding that Section 14A cannot be invoked where no exempt income was earned by assessee in relevant assessment year. Respectfully

following the same, we direct Ld. AO to verify the same. If no exempt income has been earned by the assessee, the impugned disallowance shall stand deleted. The Explanation to Sec.14A, as referred to by Ld. CIT(A), in our considered opinion, is prospective in nature and the same is not applicable in this year. The corresponding grounds raised by the assessee stand allowed for statistical purposes.

8.3 This issue arises in assessee's appeal for AY 2012-13 also. Facts being *pari-materia* the same, the corresponding grounds raised in that year stand allowed for statistical purposes accordingly.

9. Disallowance of prior period items

9.1 The assessee claimed prior period expenses of Rs.31.10 Lacs. It transpired that an amount of Rs.2.74 Lacs was on account of group insurance scheme in lieu of EDLI Policy and the same was paid on 15-9-2010. The amount of Rs.27.35 Lacs represents Incentives to employees. The Ld. AO disallowed the same as prior period expenditure.

9.2 During appellate proceedings, the assessee submitted that Group Insurance scheme in lieu of EDLI policy was paid during this year. The assessee filed supporting documents for the submission that the demand as well as payment was made during this year. The liability arose on 09-09-2010 and the payment was made on 15-09-2010. The performance incentive was stated to be quantified as and when reports are received from the various centres and to the extent it is found that the performance period is prior to this year, the same is classified as prior period expenses. The same represent liabilities ascertained during this year and accordingly, allowable to the assessee. The other amounts pertain to travelling expenses, rent etc. which has been debited in the

year on account of delayed claims received during this year. However, Ld. CIT(A) confirmed the view of Ld. AO against which the assessee is in further appeal before us.

9.3 From assessee's submissions, it emerges that various expenditure, though pertaining to earlier years, have been ascertained during this year only. The same would be claimed and allowable only upon crystallization. It is also not the case that the assessee has claimed deduction of the same in earlier years. Therefore, the impugned expenditure, in our considered opinion, is allowable to the assessee in this year only. We order so. The corresponding grounds raised by the assessee stand allowed.

9.4 This issue arises in assessee's appeal for AY 2012-13 also. Facts being *pari-materia* the same, the corresponding grounds raised in that year stand allowed accordingly.

10. Disallowance of late payment of Employee's contribution to PF / ESI

10.1 The Ld. AO, invoking the provisions of Sec.2(24)(x) r.w.s. 36(1)(va) made disallowance of Rs.207.58 Lacs for late payment of employee's contribution to PF / ESI. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us. Admittedly, this issue stand covered against the assessee by the decision of Hon'ble Supreme Court in the case of **Checkmate Services P. Ltd. Vs CIT (143 Taxmann.com 178).** Respectfully following the same, we dismiss the corresponding grounds raised by the assessee.

10.2 This issue arises in assessee's appeal for AY 2012-13 also. Facts being *pari-materia* the same, the corresponding grounds raised in that year stand dismissed accordingly.

10.3 The assessee's appeal for AY 2011-12 stands partly allowed.

11. Assessment Year 2012-13

The issue in assessee's appeal are relaunch expenses, disallowance u/s 14A, disallowance of prior period expenses and disallowance of late payment of Employee's contribution to PF / ESI. All the issues have been adjudicated by us at appropriate places in preceding paragraphs. In the result, the assessee's appeal stands partly allowed.

12. Revenue's Appeal for AY 2012-13

This appeal has been field with a small delay of 81 days, the condonation of which has been sought by the revenue. No objection has been raised by the assessee and therefore, the delay stand condoned. The grounds raised by the revenue read as under: -

1. The order of the ld. CIT(A) is contrary to law, facts and circumstances of the case.
2. Whether the Ld.CIT(A) was right in holding that the issue of interest receipt and bad debts as allowed though verification has been directed by the Ld. CIT(A) on the other hand and thus the issue has not reached finality.
3. The Ld. CIT(A) erred in not providing any opportunity u/s 46A of IT Act, to the AO or calling for a remand report.
4. Whether the Ld. CIT(A) was right in holding that disallowance u/s 40(a)(i) of the Act is not warranted on the payments made to foreign agencies by ignoring that such payments need to be taxed whether or not the permanent establishment is in India as per provisions of the section 9(2) of the Act.
5. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored.

Evidently, the grievance of the revenue is two-fold i.e., (i) disallowance u/s 40(a)(i) on account of payment made to foreign agencies; (ii) Interest receipts and bad debts. The same are adjudicated as under.

13. Disallowance u/s 40(a)(i)

13.1 The assessee made payment to foreign agencies. The same was stated to be for services rendered abroad and no part of amount was stated to be taxable in India. Therefore, no TDS was deducted against the same However, Ld. AO held that the assessee being publisher of newspapers has many reporters / journalists who gather information, verify the same and file reports. These reports undergo editing at assessee's office and get published as news report. The news gathering is done through company's group companies. In some case, the assessee depends upon well known news agencies like PTI for latest and reliable news. The assessee, for international news, has to depend on the input given by the special correspondents deputed to foreign countries. The company has made contractual payment on annual basis for the services which is technical in nature and the same would require TDS u/s 9(1)(vii) r.w..s 9(2) as amended by Finance Act, 2010. Considering the same, it was immaterial whether the company utilized the services in India for his business or not. Therefore, he amount of Rs.54.98 Lacs was disallowed u/s 40(a)(i) for want of deduction of tax at source.

13.2 The Ld. CIT(A), after considering assessee's submissions, held that Fees for Technical Services means managerial, technical and consultancy services but do not include payments considered as salary by the recipient of such income. Journalism is the process of collection, analyzing and disseminating information in public interest. This means it is a profession with a strong element of social responsibility. The Article-5, Article-7 and Article-15 of India-USA DTAA and India-UK DTAA allows

for exempting the payments made from taxation if there is no permanent establishment of the contracting entities. Therefore, the impugned disallowance was deleted. Aggrieved, the revenue is in further appeal before us.

13.3 Admittedly, none of the payee has permanent establishment in India. As noted by Ld. CIT(A), Fees for Technical Services means managerial, technical and consultancy services. The process of gathering information is nothing but a profession and these kind of services are covered under specific Article-5, Article-7 and Article-15 of India-USA DTAA and India-UK DTAA which are applicable to the facts of the present case. These articles exempt such payment from taxation in the absence of any permanent establishment. The provisions of DTAA, being more beneficial to the assessee, would apply in preference to the provisions of the Act. Therefore, we do not find any reason to interfere in the impugned order, on this issue.

14. Interest receipts and bad debts

14.1 The assessee returned interest receipt of Rs.97.87 Lacs as against an amount of Rs.116.23 Lacs as reflected in Form 26AS. The Ld. AO added the differential of Rs.7.01 Lacs to the income of the assessee. The Ld. CIT(A) directed Ld. AO to allow the assessee to reconcile the difference.

Similarly, the assessee claimed bad debt of Rs.97.66 Lacs. The Ld. AO disallowed the same. The assessee submitted that it was actual write-off and party-wise details were furnished to Ld. AO which remained to be considered by Ld. AO. Considering the same, Ld. CIT(A) directed Ld. AO to verify this claim. Aggrieved, the revenue is in further appeal before us.

14.2 We find that Ld. CIT(A) has merely issued directions for verification of certain factual aspects. The Ld. AO is free to take decisions after verifying the claims of the assessee. Therefore, no interference is required in these directions.

14.3 The revenues' appeal stand dismissed.

Conclusion

15. The assessee's appeals stands partly allowed whereas the revenue's appeal stands dismissed.

Order pronounced on 27th March, 2024

Sd/-	**Sd/-**
(MAHAVIR SINGH)	**(MANOJ KUMAR AGGARWAL)**
उपाध्यक्ष / **VICE PRESIDENT**	लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 27-03-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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