

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. Nos. 108 & 109/Kol/2023
Assessment Year: 2014-15 & 2015-16

Apeejay Surendra Park Hotels Ltd. Apeejay House 15, Park Street Kolkata - 700016 [PAN : AAACB7961L]	Vs	Deputy Commissioner of Income Tax, Circle-8(1), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Manish Tiwari, A/R
Revenue by :	Shri Raman Garg, Addl. CIT, D/R

सुनवाई की तारीख/Date of Hearing : 17/01/2024
घोषणा की तारीख /Date of Pronouncement: 01/04/2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeals are directed at the instance of the assessee against the order of the National Faceless Appeals Centre, Delhi [hereinafter the "ld. CIT(A)"] evenly dt. 15/12/2022, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Years 2014-15 and 2015-16.

2. From perusal of the grounds, we notice that the common issue raised for Assessment Year 2014-15 and 2015-16 is against the disallowance of interest on borrowed funds amounting to Rs.1,68,49,059/- and Rs.2,10,46,564/- respectively, treating them as capital expenditure.

3. At the outset, the Id. Counsel for the assessee submitted that similar issues have been raised in assessee's own case in Assessment Year 2016-17 and 2017-18 in ITA Nos. 372 & 373/Kol/2023, heard on 20/12/2023. He also submitted that the Id. CIT(A) has erred in confirming the action of the Assessing Officer of disallowing the interest on estimate basis on the past trend and calculating the same on the capital work in progress appearing in the balance sheet. He submitted that the interest expenditure claimed in the profit and loss account is purely of revenue in nature and the fresh loans for the current year were taken for working capital requirements. He further submitted that the assessee company has sufficient funds in the form of share capital and accumulated reserves and surplus to cover up the application of funds for capital work in progress.

On the other hand, the Id. D/R vehemently argued supporting the orders of the lower authorities.

4. We have heard rival contentions and perused the material placed before us. We find that similar issue came up for consideration before this Tribunal in ITA Nos. 372 & 373/Kol/2023 for Assessment Year 2016-17 & 2017-18 and the said issues has been adjudicated by this Tribunal vide order dt. 18/03/2024. The relevant finding of this Tribunal in ITA No. 372 & 373/Kol/2023, reads as follows:-

"6. We have heard rival contentions and perused the material placed before us. The issue for our consideration is whether the Id. CIT(A) has erred in confirming the action of the Assessing Officer disallowing the interest on borrowed funds at Rs.2,31,39,148/-. We notice that the alleged sum has been computed by the Assessing Officer adopting the rate of interest capitalization

for financial year 2010-11 @ 5.41%. There is no specific finding by the Assessing Officer about any capital asset being acquired during the year for which long term /short term borrowings have been taken. The alleged disallowance is purely on estimate basis without rejecting the book results.

7. We have perused the audited financial statements and notice that the capital work in progress as on the close of the current year is Rs.29.21 Crores as against Rs.26.36 Crores as on 31/03/2015. So, there is increase in the CWIP of intangible assets by Rs.2.86Crores approx. We also notice that the equity share capital and accumulated reserve and surplus as on 31/03/2016 stood at Rs.607.08 Crores. Considering the same, we find force in the contention of the Id. Counsel for the assessee that the funds utilised for increase in CWIP have been funded from the assessee's own accumulated funds. Further we notice that there is hardly any increase in the long term borrowings and the increase in short term borrowings is applied for working capital requirement. Books of accounts are audited and against the total interest expenditure of Rs. 42.77 Crores, the revenue authorities have disallowed Rs.2.31 Crores approx. merely on estimation basis. When the books of accounts are regularly maintained and duly audited, the assessee has sufficient funds and there is no finding of the revenue authorities indicating that any specific long term /short term borrowings have been utilized for acquiring fixed assets or CWIP during the year, the alleged disallowance is uncalled for. Relevant finding of the Id. CIT(A) on this issue is set aside. Accordingly, the alleged disallowance of interest on borrowed funds is deleted and Ground No. 1 raised by the assessee and for Assessment Year 2016-17 is allowed.

5. From perusal of the above finding of this Tribunal and also considering the facts of the instant case we find that the issue is verbatim similar except for the change in figures and, therefore, taking consistent view, after due examination of the available records, we are inclined to hold in favour of the assessee. Finding of the Id. CIT(A) is thus set aside and Ground No. 1 raised for Assessment Year 2014-15 & 2015-16 are allowed.

6. So far as Ground No. 2 raised for Assessment Year 2014-15 is concerned, we fail to find any merit in the same because in the grounds of appeal, the assessee has referred to disallowance of Rs.24,705/-, however, on perusal of the impugned order, we find that the same has already been restricted to actual dividends amounting to Rs. 14,511/-. Considering the fact that the Id. CIT(A) has already granted relief to the assessee, there remains no ground. Accordingly, Ground No. 2 is dismissed.

7. In the result, assessee's appeal for Assessment Year 2014-15 is partly allowed and for Assessment Year 2015-16 is allowed.

Order pronounced in the Court on 8th April, 2024 at Kolkata.

Sd/-

**(SANJAY GARG)
JUDICIAL MEMBER**

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 08/04/2024

SC Sp/2

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata