

आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 33/Kol/2024
Assessment Year: 2013-14

M/s Apex Energy Resources Pvt. Ltd. (PAN: AAECA 7503 R)	Vs.	ACIT, Circle-7(1), Kolkata (J.A.O)
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	14.03.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	10.05.2024
For the Appellant/ निर्धारिती की ओर से	Shri S. Jhajharia, FCA
For the Respondent/ राजस्व की ओर से	Shri S. Datta, CITDR

ORDER / आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 08.11.2023 for the AY 2013-14.

2. In ground no. 1 to 6, the assessee has challenged the reopening of assessment u/s 147 read with Section 148 of the Act which was not pressed at the time of hearing and accordingly the same is dismissed as not pressed.

3. Ground no. 7 to 11 the assessee has assailed the order of Ld. CIT(A) confirming the addition of Rs. 93,40,810/- as made by the AO on account of interest on unsecured loans.

4. Facts in brief are that the assessee filed return of income on 30.09.2013 declaring total income of Rs. 17,93,497/-. The case of the assessee was selected for scrutiny and accordingly the assessment u/s 143(3) was framed vide order dated 24.02.2015 assessing the income at Rs. 17,93,500/-. Thereafter the AO received information from DDIT(Inv), Unit-3(1), Kolkata and Central Circle-2(2), Kolkata that the assessee has received accommodation entry for unsecured loan from M/s Khusboo Complex Pvt. Ltd. during FY 2011-12 relevant to AY 2012-13 of Rs. 30,00,000/- on 16.09.2011 and also debited interest of Rs. 1,17,230/- on that accommodation entry. Consequently after recording reason to believe u/s 148(2) of the Act, the case was reopened u/s 147 by issuing notice u/s 148 of the Act on 4.3.2012. The assessee filed various details/information as directed by AO during the course of assessment proceedings in respect of unsecured loans of Rs. 4,80,00,000/- received from various parties and interest thereon as called for by the AO during the course of assessment proceedings. However the AO brushed aside the said evidences by treating unsecured loans as non-genuine and added the same to the income of the assessee besides adding interest of Rs. 1,73,90,910/- in the assessment framed u/s 147 read with Section 144B of the Act dated 29.09.2021.

5. In the appellate proceedings, the Ld. CIT(A) partly allowed the appeal of the assessee by deleting the addition of Rs. 4,80,00,000/- and also part addition on account of interest amounting to Rs. 80,50,100/-(wrongly mentioned in the appellate order was Rs. 70,50,500/-) and sustained the addition to the tune of Rs. 93,40,810/-. The Ld. CIT(A) while deleting the addition recorded a finding that the issue of loans

of Rs. 4,80,00,000/- was already examined by the AO during the assessment proceedings which culminated u/s 143(3) of the Act and therefore the addition of Rs. 4,80,00,000/- and interest of Rs. 80,50,500/- were deleted by the Ld. CIT(A) by holding that the corresponding unsecured loans were already accepted in the preceding and succeeding assessment years and therefore the interest cannot be disallowed during this instant assessment year.

6. After hearing the rival contentions and perusing the materials on record, we observe from the facts before us that the interest of Rs. 93,40,810/- was also provided by the assessee on the loans which were taken in the earlier assessment years. We note that even during the course of assessment proceedings the notices were issued to all the entities u/s 133(6) of the Act which were responded by the parties by filing / furnishing all the documents as desired by the AO. Therefore we find merit in the contention of the assessee when the unsecured loans were not doubted for being non-genuine in the earlier assessment years how the corresponding interest on the said loans could be added u/s 68 of the Act. Considering the facts of the case, we are of the view that the Ld. CIT(A) has erred in sustaining the addition to the tune of Rs. 93,40,810/-. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the addition.

7. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 10th May, 2024

Sd/-
(Sonjoy Sarma /संजय शर्मा)
Judicial Member/न्यायिक सदस्य

Sd/-
(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 10th May, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Apex Energy Resources pvt. Ltd., C/O, M/s Salarpuria Jajodia & Co., 7, C.R. Avenue, 3rd Floor, Kolkata-700072.
2. Respondent– ACIT, Circle-7(1), Kolkata (J.A.O)
3. Ld. CIT(A)-NFAC, Delhi
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata