

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.78/Chny/2024
निर्धारण वर्ष /Assessment Year: 2018-19

The Asst. Commissioner of Income
Tax (OSD),
Corporate Circle-1(1),
Chennai

Vs. Archean Salt Holdings Pvt. Ltd.,
Old No.19, New No.31,
Sudha Centre, First Floor,
Dr. Radhakrishnan Salai,
Mylapore, Chennai-600004.
[PAN: AAMCA 8069L]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/Assessee by
प्रत्यर्थी की ओर से /Respondent by

: Shri KM.Mohan Dass, C.A
: Shri P.Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 29.05.2024

घोषणा की तारीख /Date of Pronouncement

: 07.08.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the Revenue is against the order of Learned Commissioner of Income Tax, Appeal, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 13.10.2023 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter "the Act") on 05.03.2021.

2. The ground of appeal raised by the Revenue are as under:

“1. The order of the learned CIT(A) is contrary to law, facts and circumstances of the case.

2. The learned CIT(A) has erred in not considering that giving concessional loans to related parties does not qualify as commercial expediency and it does not help it furthering own business of the assessee.

3. The learned CIT(A) has erred in not justifying that the heavily relied upon the judgment of the Hon'ble Supreme Court by the learned CIT(A) in the case of S A Builders Vs. CIT ITR 1 (SC), dated 14. 12.2006 is significant degree of divergence between the facts and circumstances of the case law and the case of the assessee under consideration here.

4. The learned CIT(A) has erred in not treating the loan advanced by the assessee company to ACIPL as the funds utilized for non-business purposes.

4. 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.”

3. The brief facts of the case are that the assessee-company is engaged in the business of manufacturing and trading of edible industrial salt and marine chemicals. The assessee-company has taken a loan of Rs. 135 Crores from KKR India Financial Services Ltd. At interest rate of 20% and advanced Rs.105 Crores to its group concern M/s. Archean Chemical Industries Pvt. Ltd. (for short “ACIPL”) which was also engaged in the business of industrial salt and marine chemicals @ 12%. The A.O has disallowed excess interest @ 8% incurred as not for business u/s. 36(1)(iii) of the Act. The Ld. CIT(A)

after examining the nature of loan and relying on the decision of Hon'ble Supreme Court in the case of *SA Builders Ltd. vs. CIT [2007] 288 ITR 1 (SC)* has held that loan was advanced in commercial expediency for the business purpose and therefore, held to be allowable u/s. 36(1)(iii) of the Act .

4. The Ld. DR relying on the order of A.O argued that the loan advanced was not for the business purpose and therefore, excess interest debited is disallowable u/s. 36(1)(iii) of the Act. The Ld DR submitted that Ld. CIT(A) ought to have confirmed the disallowances as the loan advanced at concessional rate was not for assessee company business.

5. The Ld. AR before us has argued that the assessee-company held 40% interest in its flagship company ACIPL through its wholly owned subsidiary Jakhau Salt Company Pvt. Ltd (for short "JSCPL). The ACIPL had set up green field projects on Hazipir, Gujarat and was facing a financial crisis and was on the verge of being declared as NPA . So in order to safeguard its business interest, the assessee had advanced loan to flagship company and therefore as held by Hon'ble Supreme Court in the case *SA Builders, supra*, no disallowance u/s. 36(1)(iii) of the Act can be made . The Ld. AR has also contended that

there was a clause in the loan agreement that the assessee cannot charge rate of interest more than 12% accordingly interest @12% was charged from ACIPL .

6. We have heard the rival contentions, and perused the materials available on record. The assessee-company has borrowed loan of Rs. 135 Crores from KKR India Financial Services Ltd. with interest rate of 20% and advanced Rs.105 Crores with interest @ 12% to M/s. AICPL. The A.O disallowed excess interest debited as not for business purpose. The Ld. CIT(A) has held that the loan was advanced for commercial expediency and was for business purpose. The Ld. CIT(A) has relied on the order of Hon'ble Supreme Court in the case of SA Builders vs. CIT, supra, and in the case of *Hero Cycles (P) Ltd. vs. CIT (Central) in Civil Appeal No.514/2008 (SC)* .

7. It is seen that the assessee through its wholly subsidiary company JSCPL was holding 40% of interest in ACIPL. The purpose of loan was to save goodwill and reputation of the group along with its own interest on its investment. The Hon'ble Supreme Court in the case of SA Builders vs. CIT, supra, has held that where it is obvious that a holding company has a peak interest in business subsidiary and hence, if the holding company advanced borrowed money to a subsidiary company

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and the same is used by the subsidiary company for some business purposes, the assessee would ordinarily be entitled to deduction of interest on its borrowed loans. The Ld. CIT(A) has considered the terms of loan agreement and the reasons for advancing the loan @12%. We do not find any infirmity in the order of Ld. CIT(A) and therefore, we uphold the order of the Ld. CIT(A).

8. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 07th August, 2024.

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष / Vice President

Sd/-
(जगदीश)
(Jagadish)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 07th August, 2024.
EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF