

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI**

**BEFORE SHRI. AMARJIT SINGH, AM  
AND  
MS. KAVITHA RAJAGOPAL, JM**

ITA No.2580/Mum/2024 (Assessment Year: 2014-15)  
ITA No.2577/Mum/2024 (Assessment Year: 2015-16)  
ITA No.2575/Mum/2024 (Assessment Year: 2016-17)  
ITA No.2572/Mum/2024 (Assessment Year: 2017-18)

<b>Income Tax Officer – 1(1)(3)</b> 531A, Aayakar Bhavan, M. K. Road, Mumbai – 400020.	Vs.	<b>Gas and Power Investment Company Limited</b> Ground Floor, Asian Building, 17R Kamani Marg, Ballard Estate, Mumbai – 400001.
<b>PAN/GIR No. AACCG3843J</b>		
<b>(Assessee)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	Shri. Himanshu Gandhi
<b>Respondent by</b>	:	Shri. Suresh Gaikwad – Sr. AR.
<b>Date of Hearing</b>	:	27.11.2024
<b>Date of Pronouncement</b>	:	28.11.2024

**ORDER**

**PER KAVITHA RAJAGOPAL, J M:**

These appeals have been filed by the Revenue, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Years (‘A.Y.’ for short) 2014-15 to 2017-18.

2. As the facts are common in all the appeals, we hereby pass a consolidated order by taking ITA No. 2580/Mum/2024 (Assessment Year: 2014-15) as the lead case:

**ITA No. 2580/Mum/2024 (Assessment Year: 2014-15)**

3. The Revenue has challenged the order of the Id. CIT(A) on the following grounds:

1. *“Whether on the facts and the circumstances of the case and in law, the Id. CIT(A), NFAC erred in law in deleting the addition of Rs.140,49,65,231/- and accepting the income of the assessee as per its audited annual report without appreciating the facts that the assessee is following the mercantile system of accounting.*

2. *Whether on the facts and the circumstances of the case and in law, the Id. CIT(A), NFAC erred in law in deleting the addition without appreciating the facts that the interest income was liable to be taxed on accrual basis in line with mercantile system of accounting adopted by the assessee.”*

4. The brief facts are that the assessee company was incorporated on 15.02.2005 as Special Purpose Company promoted by Indian Financial Institutions, vis-à-vis IDBI, ICICI Bank, IFCI Ltd., SBI and Canara Bank and the same is registered as a Government Company u/s. 617 of the Companies Act, 1956. The assessee company was set up for the sole purpose of settlement of claim of off-shore lenders of Dabhol Power Co. Ltd. (DPC) as per a comprehensive restructuring plan for the purpose of revival of DPC's power project approved by Empowered Group of Ministers (EGOM) constituted by Government of India (GOI). The assessee settled the claims by raising loans from IFIs and also by placing secured, non-convertible GOI guaranteed bonds aggregating to Rs. 1,309.30 crore with Life Insurance Corporation of India (LIC). Pursuant to the approval of the Hon'ble Jurisdictional High Court, the assets of DPC were acquired by Ratnagiri Gas and Power Pvt. Ltd. (RGPPL) which was a company set up by GAIL (India) Ltd. and NTPC Ltd. as per the revival plan where the assessee was the lender to RGPPL and the loan given to DPC was settled as per the settlement plan. The assessee submits that it has no employees since inception as it was set up only for a limited purpose.

5. The assessee's case was selected for scrutiny for A.Y. 2010-11 to 2013-14 were addition u/s. 43B was made by the learned Assessing Officer (ld. A.O. for short) by disallowing interest paid on funded interest loan and similar addition was also made for A.Y. 2006-07 to 2009-10 in the reassessment proceeding. In an appeal before the Tribunal, the coordinate bench gave relief to the assessee for A.Y. 2006-07 which was then followed by the ld. CIT(A) for the subsequent assessment years from 2007-08 to 2013-14. The coordinate bench for A.Y. 2010-11 and 2011-12 had remanded the matter back to the ld. AO and as there was no representation on behalf of the assessee, the entire interest on funded loan were disallowed. The ld. CIT(A) for A.Y. 2007-08 to 2009-10 and 2012-13 to 2013-14, vide order dated 31.03.2022 gave relief to the assessee by accepting the returned income.
6. In the above background, the assessee's case was reopened by the ld. AO vide notice u/s. 148 dated 30.03.2021 based on the information available with TDS return that the assessee was in receipt of other interest (Section 194) aggregating to Rs. 140,49,65,231/- during the year under consideration where the assessee has not filed its return of income. As the assessee was non compliant during the assessment proceedings, the ld. AO passed the assessment order dated 31.03.2022 u/s. 147 r.w.s. 144 r.w.s. 144B being the best judgment assessment and determined the total income at Rs. 140,49,65,231/- making an addition on income from other sources.
7. Aggrieved the assessee was in appeal before the First Appellate Authority, who vide order dated 27.03.2024 had allowed the appeal filed by the assessee.
8. The revenue is in appeal before us, challenging the order of the ld. CIT(A).

9. We have heard the rival submissions and perused the materials available on record.

The submission made by the assessee before the Id. CIT(A) has been reproduced hereinunder for ready reference:

*“Assessee Company Gas and Power Investment Co Limited (GPICL), incorporated on February 15, 2005, is special purpose company, promoted by Indian Financial Institutions viz. IDBI, ICICI Bank, IFCI Ltd., SBI and Canara Bank and registered under section 617 of Company Act, 1956 as a government company.*

*GPICL was set up for the specific purpose of settlement of claim of off- shore lenders of Dabhol power company (DPC), as envisaged under a comprehensive restructuring plan for revival of the DPC's power project, finalized under the aegis of the Empowered Group of Ministers (EGOM) constituted by the Government of India (GOI).*

*GPICL settled the claim by raising loans from the IFIs as also placing secured, nonconvertible GOI guaranteed bonds aggregating Rs. 1309.30 crore with Life Insurance Corporation of India (LIC).*

*Under the revival plan and pursuant to a consent approved by Bombay High Court, the assets of DPC were acquired by Ratnagiri Gas and Power Pvt. Ltd. (RGPPL), a company set up by GAIL (India) Ltd and NTPC Ltd GPICL became a lender to RGPPL and its loan to DPC were extinguished as per the envisaged settlement plan*

*Being an SPV with only limited purpose, GPCIL has no employee since inception.*

*B. Assessment status for earlier years:*

*Assessment year 2010-11, 2011-12, 2012-13 and 2013-14 was selected for scrutiny and made huge arbitrary additions under section 43-B by disallowing interest paid on funded interest loan. The AO also reopened the assessment of AY 2006-07 to 2009-10 and made similar additions.*

*The ITAT Mumbai granted relief for AY 2006-07 and CIT Appeal granted the relief to assessee from AY 2007-08 to 2013-14. The department preferred an appeal before ITAT.*

*Meanwhile assessee bank accounts and fixed deposits were attached by the department and assessee Substantial amounts (in Cores) of Refunds are adjusted against the demands raised in reopening cases as also in cases scrutinized assessment under section 143 (3).*

*Assessee being a Government Company formed for a special purpose, the Income Tax department had not cooperated and made huge arbitrary additions and its bank accounts were seized, FD were encashed and even funds were directly collected from its debtors and due refunds were not released despite reliefs granted by appeal authority in all cases. Resulting assessee could not represent before ITAT wherein AO had preferred appeal against order of the first appellate authority. Further it could not appoint persons for day to day services as well to pay Statutory Auditors.*

*The Hon'ble tribunal has remanded back the appeal to CIT (A) for AY 2010-11. And for other years the matter was remanded back to AO.*

*In Assessment year 2011-12 ITAT has remanded matter back to AO. The AO had issued various notices, but the same was also not represented and AO again disallowed entire interest on funded loan and for which Appeal is filed with CIT (Appeal).*

*The assessment for 2007-08, 2008-09, 2009-10, 2012-13 and 2013-14 again came for hearing in face less hearing and return filed is considered as income vide orders dated 31.03.2022. Thus the disputes raised by AO is put to rest for all these years and For AY 2011-12 the matter is heard by CIT A in face less hearing and we are expecting a favorable order based on all other assessments.*

*C. Facts for the relevant previous year:*

*On vacating the bank seizure order the assessee could manage to adopt annual report for FY 2013-14 The Audit report for FY 2013-14 was signed on 24.01.2022 and Tax Audit report was obtained on 31.03.2022 and the tax of Rs. 1,61,01,794/- was also paid on 31.03.2022. Due to this the assessee could not file its ROI in time and also could not respond to notice issued under section 148 and subsequent notices under section 142 (1). On 24 March 2022 a show cause notice was issued. In response to the same the assessee filed its ROI on 31.03.2022 but could not generate Acknowledgement for AY 2014-15 as during filling process of ROI on 31.03.2022 the window for response was withdrawn which was open when assessee started filling the Return.*

*And on same date the assessment order for the year was passed considering the Income shown as per 26 AS. The annual report of the assessee and SAT paid was not considered. The assessee then preferred an appeal before your honour.*

*D. Basis of revenue recognition in Annual Report for the financial year 2013-14*

*GPICL is a Special Purpose Vehicle (SPV) Incorporated in the year 2005 sponsored by the Indian Financial Institutions and Banks (IFIs) viz. IDBI Bank Ltd., ICICI Bank Ltd., State Bank of India, Canara Bank and IFCI Ltd with equal equity shareholdings. The company comes under the purview of Section 619(B) of the Companies Act, 1956 wherein more than 51 percent of the shareholders were Govt companies. Accordingly, Statutory Auditors of the Company are being appointed by Comptroller and Auditor General of India.*

*GPICL was registered as NBFC and granted Certificate of Registration issued by RBI on 11.05.2005. GPICL was set up for the specific purpose of buy-out/settlement of the debt/claims of offshore stakeholders in relation to the Dabhol Power Project (DPP) through Ratnagiri Gas and Power Pvt Ltd. (RGPPL). GPICL never had undertaken any activity apart from the specific purpose for which it was set up.*

*RGPPL was incorporated in 2005 by NTPC, GAIL, MSEB Holding Co Ltd (MSEB) (representative of Govt. of Maharashtra) and Indian Financial Institutions/Banks, under the aegis of Govt. of India (GoI), to acquire the partially completed project assets of DPP. Equity Investments were made by NTPC, GAIL, MSEB and Indian lenders.*

*The debt was raised from IDBI, SBI, ICICI, Canara Bank, IFCI and Gas and Power Investment Company Ltd (GPICL), promoted by IDBI, SBI, ICICI, Canara Bank and IFCI.*

*GPICL granted loan of Rs. 1552.53 crore to RGPPL by raising funds through Redeemable Non-Convertible Debenture (NCD) of Rs. 1309.25 crore and balance by way of loans from lenders (IDBI, SBI, ICICI, Canara Bank and IFCI) to the extent of Rs. 243.28 crore.*

*GPICL issued Redeemable NCDs in two series (i.e. Rs. 1004 crore Series A and Rs. 305.30 crore Series B) with face value of Rs. 10,00,000/- each and subscribed by Life Insurance Corporation of India (LIC). NCDs were backed by Gol guarantee in favor of IDBI Trusteeship Services Ltd (Trustee) on behalf of LIC. Gol issued the guarantee, reckoning RGPPL as a Gol company.*

*The entire fund raised by GPICL was utilized for on-lending to RGPPL In line with the scheme of arrangement for buy-out/settle the debt/claims of offshore stakeholders in relation to the DPP. While the Rupee Term Loans were subsequently transferred/assigned to RGPPL, the NCDs raised continued to be in the books of GPICL.*

*The plant generally operated satisfactorily during FY 2011 and FY 2012. However from the year 2013, operations of the plants were impacted due to acute shortage of domestic gas supply. Power blocks were completely shut downed from December 2013. Accordingly RGPPL faced stiff liquidity constraints and could not meet the debt obligations regularly.*

*With a view to find a viable solution, numbers of Inter-Ministerial Meetings were held at the aegis GOI office. At one such high level meeting, convened by Department of Economic Affairs (DEA) on September 25, 2014, lenders suggested for hiving-off LNG Terminal into a separate SPV (with appropriated debt) and restructure the debt in both the resulting companies. Lenders kept DEA informed about the developments and also continuation of guarantee as well.*

*The Demerger Scheme was approved by NCLAT, vide its order dated February 28, 2018 and implemented in FY 19. LNG Terminal got demerged into a separate entity viz. Konkan LNG Private Limited (KLPL) and entire assets and liabilities of LNG terminal have been shifted to KLPL Lenders.*

*Subsequently during FY 2020-21, outstanding debts of both KLPL and RGPPL were settled under a One Time Settlement Scheme (OTS) by the lenders. While accepting the OTS proposal, GPICL informed and requested NOC from LIC for the OTS settlement. LIC accepted and granted NOC for OTS settlement with KLPL (vide letter dated March 20, 2020) and RGPPL (vide letter dated December 28, 2020). Though similar request was also initiated with DEA for the guarantee, did not receive any response.*

*The above loan along with overdue interest was as under:*

<i>Name of Scheme</i>	<i>Amount</i>	<i>of</i>	<i>Settled</i>	<i>Date of Receipt</i>
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	<i>Principal and funded interest (Rs. in crores)</i>	<i>Amount</i>	
<i>CRPS (17.05.2019)</i>	<i>860.57</i>	<i>Rs.5 only</i>	<i>Rs. 3 on 07.09.2019 Rs. 1 on 31.02.2020 Rs. 1 on 31.12.2020</i>
<i>One Time Settlement (dated 23.03.2020 with Konkan LNG Limited (Demerged entity of RGPPL)</i>	<i>756.82 (including 107.9 crores towards overdue interest)</i>	<i>512.71 Crores</i>	<i>24.03.2020</i>
<i>One Time Settlement dated 24.03.2020 with RGPPL</i>	<i>269.13</i>	<i>162.02 crores</i>	<i>31.12.2020</i>

*In view of the above your honour will appreciate that appellant company had not received the principal loan and had to agree the haircut in Principal amount and partly received interest before implementation of the above settlement and accordingly, in the relevant financial year appellant had considered the interest income of Rs. 9,44,92,035/- which was actually received by the appellant and accordingly computed its taxable income of Rs. 7,95,21,680/-. The financial statement was prepared considering the relevant accounting standard for Revenue Recognition.*

*Assessee being a Government Company, its auditors is appointed by CAG as also supplementary Audit is also conducted by the team of CAG.*

*The above revenue recognition is accepted by the Statutory Auditors appointed by the CAG and also by the CAG while conducting supplementary audit*

*For your ready reference we are enclosing herewith the followings:*

- 1. Audited Annual report for the relevant financial year 2013-14*
- 2. Tax Audit Report*
- 3. SAT Challan*
- 4. Bank Statement for the year 2013-14*
- 5. Computation of Income*
- 6. CAG supplementary audit report*
- 7. Demerger Scheme*
- 8. CRPS (17.05.2019) wherein your honor will observe that for value of redeemable Preferential shares of Rs. 860.57 crores a sum of Rs. 5/-only is agreed and received.*
- 9. One time settlement dated 23.03.2020 with Konkan LNG Limited (Demerged entity of RGPPL) of with Rs 756.82 crores was settled for Rs 512.71 crores*
- 10. One time settlement 24.03.2020 with RGGPL for Rs 269.13 Crores was settled for Rs. 162.02 crores.*

*Para 9.2 of Accounting Standard -9 for revenue recognition read as under:*

*Quote*

9.2 *Where the ability to assess the ultimate collection with reasonable certainty is lacking at the time of raising any claim, e.g., for escalation of price, export incentives, interest etc., revenue recognition is postponed to the extent of uncertainty involved. In such cases, it may be appropriate to recognise revenue only when it is reasonably certain that the ultimate collection will be made. Where there is no uncertainty as to ultimate collection, revenue is recognised at the time of sale or rendering of service even though payments are made by installments.*

*Unquote*

*The Financials for FY 13-14 as approved by board of directors and duly audited by the auditors, it was certain on that time of preparing the financials that the revenue as shown in 26AS will certainly not be realized and hence the revenue only to the extent which was received during the FY 13-14 was recognized considering the Accounting Standard 4 relating to Contingencies and Events occurring after the Balance Sheet date.*

*Your honour will appreciate that appellant had never received the differential interest not recognized in the annual report in view of the settlements.*

*All the related parties are Government Company.*

*In view of above the appellant prays that*

- 1. Income be considered as per COI enclosed above.*
- 2. Credit of TDS claimed and available in 26 AS be granted*
- 3. Credit of SAT paid be granted.”*

10. Based on the submission made by the assessee before the First Appellate Authority a remand report was called for by the Id. CIT(A) from the Id. AO and the following submission has been made by the Id. AO.

*“On perusal of the submission of the assessee and details available on record it is seen that the assessee has submitted that only partly interest of Rs. 9,44,92,035/- was received and the same was offered in computation of income. However, as per the form 26AS and assessment order, the interest of Rs. 140,49,65,231/- was received by the assessee during the year under consideration. Further, the assessee submitted that assessee had never received the differential interest not recognized in the annual report in view of the settlement. The assessee also relied upon the Accounting Standard-9. The Accounting Standard-9 is not applicable in the case of the assessee as this Accounting Standard assumes that “the three fundamental accounting assumptions i.e., going concern, consistency and accrual have been followed in the preparation and presentation of financial statements.”*

*However, there is no consistency in interest recognition in the case of Assessee*

*Company as no original ITR was filed by the assessee after the AY 2013-14 and the assessee is also following the mercantile method of accounting. The assessee has filed ITRs after receiving notices u/s 148 of the Act for the AY 2015-16, 2016-17, 2018-19 and 2019-20. Therefore, the claim of the assessee for recognized of interest as per Accounting Standard-9, is not acceptable. Thus, the then AO made addition correctly on account of interest of Rs. 140,49,65,231/- for the year under consideration”.*

11. The Id. CIT(A) on perusal of the same observed that the assessee has not filed its original return of income and had filed the returns only in response to notice u/s. 148 of the Act. The Id. CIT(A) further held that the assessee has not done any other activity other than for the specific purpose for which it was set up. The assessee had granted a loan of Rs. 1552.53 crore to RGPPL by raising funds through Redeemable Non-Convertible Debentures (NCD) amounting to Rs. 1309.25 crore and the remaining was sourced by way of loans from lenders viz. IDBI, SBI ICICI, Canara bank and IFCI amounting to Rs. 243.28 crores. The Id. CIT(A) also observed that the assessee issued redeemable NCDs in two series (Rs. 1004 crore Series A and Rs. 305.30 crore Series B) with face value of Rs. 10,00,000/- each and subscribed by LIC.

The Id. CIT(A)'s finding is cited hereinunder:

*6.1 “On perusal of the appellant's submissions along with the Assessment Order and the remand report provided by the AO, it is observed that the appellant did not submit the original Income Tax Return (ITR) and only filed it in response to a notice under section 148 of the Act. Nonetheless, the reasons for not filing the original ITR have been clarified by the appellant.*

*6.2 Now, regarding the merits of the issue, it is observed that GPICL was set up for the specific purpose of buy-out/settlement of the debt/claims of offshore stakeholders in relation to the Dabhol Power Project (DPP) through Ratnagiri Gas and Power Pvt Ltd. (RGPPL). GPICL never had undertaken any activity apart from the specific purpose for which it was set up. RGPPL was incorporated in 2005 by NTPC, GAIL, MSEB Holding Co Ltd (MSEB) (representative of Govt. of Maharashtra) and Indian Financial Institutions/Banks, under the aegis of Govt. of India (Gol), to acquire the partially completed project assets of DPP.*

6.3 GPICL granted loan of Rs. 1552.53 crore to RGPPL by raising funds through Redeemable Non-Convertible Debenture (NCD) of Rs. 1309.25 crore and balance by way of loans from lenders (IDBI, SBI, ICICI, Canara Bank and IFCI) to the extent of Rs. 243.28 crore. GPICL issued Redeemable NCDs in two series (i.e. Rs. 1004 crore Series A and Rs. 305.30 crore Series B) with face value of Rs. 10,00,000/- each and subscribed by Life Insurance Corporation of India (LIC).

6.4 The plant generally operated satisfactorily during FY 2011 and FY 2012. However from the year 2013, operations of the plants were impacted due to acute shortage of domestic gas supply. Power blocks were completely shut downed from December 2013. Accordingly RGPPL faced stiff liquidity constraints and could not meet the debt obligations regularly

6.5 With a view to find a viable solution, numbers of Inter-Ministerial Meetings were held at the aegis GOI office. At one such high level meeting, convened by Department of Economic Affairs (DEA) on September 25, 2014, lenders suggested for hiving-off LNG Terminal into a separate SPV (with appropriated debt) and restructure the debt in both the resulting companies. Lenders kept DEA informed about the developments and also continuation of guarantee as well. The Demerger Scheme was approved by NCLAT, vide its order dated February 28, 2018 and implemented in FY 19. LNG Terminal got demerged into a separate entity viz. Konkan LNG Private Limited (KLPL) and entire assets and liabilities of LNG terminal have been shifted to KLPL Lenders. Subsequently during FY 2020- 21, outstanding debts of both KLPL and RGPPL were settled under a One Time Settlement Scheme (OTS) by the lenders. While accepting the OTS proposal, GPICL informed and requested NOC from LIC for the OTS settlement. LIC accepted and granted NOC for OTS settlement with KLPL (vide letter dated March 20, 2020) and RGPPL (vide letter dated December 28, 2020).

6.6 The above loan along with overdue interest was as under:

<i>Name of Scheme</i>	<i>Amount of Principal and funded interest (Rs. in crores)</i>	<i>Settled Amount</i>	<i>Date of Receipt</i>
<i>CRPS (17.05.2019)</i>	<i>860.57</i>	<i>Rs.5 only</i>	<i>Rs. 3 on 07.09.2019 Rs. 1 on 31.02.2020 Rs. 1 on 31.12.2020</i>
<i>One Time Settlement (dated 23.03.2020 with Konkan LNG Limited (Demerged entity of RGPPL)</i>	<i>756.82 (including 107.9 crores towards overdue interest)</i>	<i>512.71 Crores</i>	<i>24.03.2020</i>
<i>One Time Settlement dated 24.03.2020 with RGPPL</i>	<i>269.13</i>	<i>162.02 crores</i>	<i>31.12.2020</i>

6.7 From the above facts, it is undisputed that an order by the NCLAT during the FY 2020-21 settled the loan provided to RGPPL and KLNG(demerged entity of RGPPL) through its One Time Settlement Scheme (OTS). The appellant has also provided details of the consequent amount to be received, as per the NCLAT order, which is evident from the table above. In support of its claim, the appellant has also furnished a copy of the NCLAT order.

6.8 In light of this NCLAT Order, it is seen that the appellant has received partial principal and interest, with the partial interest component being received before the settlement took effect. Notably, the AO's remand report lacks any comments on the impact of the settlement order on the receipt of loan and interest by the appellant from RGPPL especially when it is clearly seen that the appellant has not received the stipulated amount on account of principal as well as interest component of the loan given by the appellant to RGPPL after the settlement of loan through One Time Settlement Scheme (OTS) order of the NCLAT.

6.9 Moreover, although Form 26AS indicates a payment of Rs. 140,24,25,867 /- from RGPPL made to the appellant with TDS deducted of Rs 14,02,42,588/- it's crucial to acknowledge that the appellant's bank statement in fact shows Nil receipt from RGPPL during the year and not Rs. 140,24,25,867 /- from RGPPL as mentioned in Form 26AS. Again the remand report is completely silent on this aspect regarding the non-receipt of amount of Rs. 140,24,25,867 /- from RGPPL in the Bank account of the appellant which is mentioned in Form 26AS.

6.10 In addition, the appellant has submitted its Bank statement from FY 2012-13 to FY 2018-19 and it is also observed that any amount on account of Interest component received from RGPPL has been received in the subsequent years

6.11 A comparison of the Bank statement of SBI submitted by the appellant showing credits from RGPPL with the amount of Revenue against such income shown in Profit and loss account is as under:

Sl. No.	Amount received from RGPPL	A.Y.	Amount shown in Profit and loss
1.	Gas and Power to RGPPL	13-14	140,21,47,133/-
	Date : Amount		
	01.05.2012 1,66,66,019		
	01.06.2012 1,72,21,553		
	30.06.2021 1,66,66,019		
	01.08.2012 1,72,21,553		
	01.09.2012 1,72,21,553		
	01.10.2012 1,66,66,019		
	01.11.2012 1,72,21,553		
	01.12.2012 1,66,66,019		
	01.01.2013 1,72,21,553		
	01.02.2013 1,72,21,553		
	01.03.2013 1,55,54,951		
	30.03.2013 39,00,00,000		



*revenue as per 26AS would not be realized due to order of NCLAT, the revenue only to the extent which was received during F.Y. 2013-14 was recognized considering the AS-4 relating to contingencies and events occurring after the balance sheet date.*

*6.16 In view of the above the addition of Rs. 140,49,65,231/- made by AO is deleted. However, the AO is directed that since the appellant has not filed ITR within due date, the refund/loss if any claimed by the appellant may not be allowed.”*

12. From the above, it is observed that RGPPL and KLNG has settled the loan as per the one time settlement scheme (OTS) pursuant to the Hon’ble NCLAT order and the assessee has received part of the principal and interest component even before the settlement was effected. The Id. CIT(A) has accepted the assessee’s contentions that it has not received any principal or interest subsequent to the settlement of loan post the order of Hon’ble NCLAT. Further, it is also observed that though RGPPL has deducted TDS amounting to Rs. 14,02,42,588/- as per form 26AS, the assessee has not received the impugned payment of Rs. 140,24,25,867/- from RGPPL in its bank account which reflects NIL receipts during the year under consideration. The Id. CIT(A) has also perused the bank statement of the assessee pertaining to the SBI account which reflects credits from RGPPL which tallies with the P & L Account of the assessee. Further, the assessee has declared the impugned amount of Rs. 140,21,47,133/- as revenue received from RGPPL in its P & L against the credit of Rs. 137,83,70,003/- in F.Y. 2012-13 which substantiates the facts that the assessee has declared it as revenue in its P & L Account for F.Y. 2012-13. The Id. CIT(A) has also held that the Id. AO’s contentions that the assessee has not followed a consistent method for revenue recognition is also negated for the

reason that due to the uncertainty that prevailed because of the Hon'ble NCLAT proceeding in the case of RGPPL, application of AS-9 is justified where the revenue recognition is based on the actual interest received during the year under consideration which is NIL during the impugned year. To corroborate further the assessee being a government entity is subjected to statutory audit by Comptroller and Auditor General of India (CAG) along with supplementary audit which has approved the revenue recognition adopted by the assessee in considering AS-9 to be appropriate in case of uncertainties arising subsequent to preparation of the balance sheet. The learned Authorised Representative (Id. AR for short) for the assessee relied on the decision of the coordinate bench in the case of *ITA No. 2488/Del/2010, M/s. MMTC Ltd. vs. The Dy. CIT, order dated 30.01.2024* to substantiate that Accounting Standard AS-9 on revenue recognition issued by ICAI in case of uncertainty is most appropriate. It is also pertinent to point out that the Id. AO has also not brought on record any fact to establish that the assessee has received the impugned amount during the year under consideration in his remand report. The revenue has nothing to controvert assessee's contentions.

13. In the above factual matrix, we do not find any infirmity in the order of the Id. CIT(A) and we therefore are inclined to dismiss the grounds of appeal raised by the revenue.
14. In the result, this appeal filed by the revenue is dismissed.

**ITA No.2577/Mum/2024 (Assessment Year: 2015-16)**

**ITA No.2575/Mum/2024 (Assessment Year: 2016-17)**

**ITA No.2572/Mum/2024 (Assessment Year: 2017-18)**

15.The findings in ITA No. 2580/Mum/2024 for A.Y. 2014-15 will apply *mutatis mutandis* to these appeals also.

16.In the result, all these appeals filed by the revenue are dismissed.

*Order pronounced in the open court on 28.11.2024*

**Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER**

**Sd/-  
(KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER**

Mumbai; Dated: 28.11.2024

Karishma J. Pawar (Stenographer)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai