

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER
ITA No.2204/Ahd/2024
Asstt.Year : 2021-22

The DCIT, Cir.2(1)(1) Vadodara.	Vs.	Madhya Gujarat Vij Company Ltd. 4 th Floor, Sardar Patel Vidyut Bhavan, Race Course Circle Alkapuri, Vadodara. PAN : AADCM 7439 H
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(Applicant)		(Responent)
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Assessee by :	Shri M.K. Patel, Advocate
Revenue by :	Dr. Sanjay Kumar Lal, CIT-DR

सुनवाई की तारीख/Date of Hearing : 08/05/2025
घोषणा की तारीख /Date of Pronouncement: 09/05/2025

आदेश/ORDER

PER MAKARAND V.MAHADEOKAR, AM:

This appeal by the Revenue is directed against the order dated 01.11.2024 passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"], under section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"] for the assessment year 2021-22 arising out of the order dated 19.12.2022 passed by the Assessing Officer (AO) under section 143(3) read with section 144B of the Act.

Facts of the Case

2. The assessee company is engaged in electricity distribution. For A.Y. 2021–22, the assessee filed its return of income on 12.03.2022 declaring Nil income after set-off of brought forward losses. The case was selected for complete scrutiny under CASS and assessment was completed under section 143(3) read with section 144B of the Act. In the said assessment order, the Assessing Officer made an addition of Rs. 20,79,52,000/- by recharacterising income declared under “Profits and Gains of Business or Profession” as “Income from Other Sources”. The amount comprised:

- i. Rs. 2,62,08,000/- as interest on staff loans, and
- ii. Rs.18,17,44,000/- as miscellaneous receipts including tender fees, supervision charges, unclaimed customer deposits, scrap sales, and forfeiture of earnest money.

3. The Assessing Officer held that these incomes were not derived from the regular distribution of electricity and, therefore, do not have direct nexus with the business activity of the assessee. Consequently, the said amount was assessed under the head “Income from Other Sources”.

4. In appeal before the CIT(A), the assessee contended that the miscellaneous receipts were derived in the ordinary course of its operations and are incidental to its business of electricity distribution. It was submitted that similar receipts had been accepted as business income in earlier assessments and that such treatment was consistent with accounting principles and judicial interpretation. The CIT(A), relying on the appellate order in assessee’s own case for A.Y. 2018–19, held that the interest on staff loans is to be assessed under “Income from Other Sources”, being not directly connected to core electricity distribution. The CIT(A) however held that the remaining items of

miscellaneous income amounting to Rs. 18,17,44,000/- are incidental to business operations and should be taxed under “Profits and Gains from Business or Profession”. Accordingly, the CIT(A) partly allowed the appeal, directing the AO to treat only the interest income under “Income from Other Sources” and to treat the balance miscellaneous receipts of Rs.18,17,44,000/- as business income.

5. Aggrieved by the order of CIT(A), the revenue is in appeal before us raising following ground:

- i) *On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in treating the miscellaneous receipts of Rs.18,17,44,000/- as business income instead of treating the same as income from other sources.*
- ii) *The appellant craves leaves to add, modify, amend or alter any grounds of appeal at the time of, or before, the hearing of appeal.*

6. During the hearing, the learned Departmental Representative supported the assessment order and submitted that the receipts in question have no direct nexus with the electricity distribution business.

7. On the other hand, the learned Authorised Representative submitted that the issue is covered in favour of the assessee by the decision of the Co-ordinate Bench in the assessee’s own case for earlier years in ITA Nos. 372 to 374/Ahd/2022, order dated 07.02.2024. It was submitted that in those appeals the Co-ordinate Bench considered identical additions and remanded the matter to the AO for fresh adjudication with direction to verify the nature of receipts and allow the claim in accordance with law.

8. In support of the contention that the miscellaneous income is intrinsically linked to the assessee’s core business operations, the learned AR placed on record a detailed break-up of the components of miscellaneous income aggregating to Rs. 18,17,43,765/-. The break-up includes:

- i. Tender form fees, penalties, and supervision charges recovered from suppliers and contractors;
- ii. Charges for water, guest house, staff quarters, and other employee-related recoveries;
- iii. Income from right to information applications, forfeited security deposits, and unclaimed liabilities;
- iv. Solar pump charges, surcharge recoveries, retention money, and exam fees;
- v. and other heads such as HT load charges, inter-company material sale, and provision no longer required.

9. The AR emphasised that these incomes have been consistently derived from the day-to-day operations and regulatory functions of electricity distribution and are thus inextricably linked to the assessee's business. A sub-classification of "Other Miscellaneous Receipts" amounting to Rs. 414.75 lakhs was also submitted, indicating that the majority of such receipts relate to operational forfeitures (like EMD/PBG not claimed for 3 years), recovery from suppliers/contractors, consumer charges, and similar operational flows. It was contended that such income does not arise fortuitously or independently but arises from contractual, administrative, or regulatory aspects of electricity distribution.

10. We have considered the rival submissions and perused the orders of the authorities below as well as the material placed on record. The issue in dispute pertains to the head of income under which miscellaneous receipts earned by the assessee in the course of business are to be assessed. It is noted that similar issue had arisen in the assessee's own case for earlier years, and the Co-ordinate Bench of this Tribunal in ITA Nos. 372 to 374/Ahd/2022 for A.Ys. 2014-15, 2015-16 and 2018-19, vide order dated 07.02.2024, has restored the matter back to the file of the AO for proper verification. The relevant portion of the order is extracted below:

“24. We have given our thoughtful consideration and perused the materials available on record. The Hon’ble Madras High Court in the case of CIT vs. New India Maritime Agencies (P.) Ltd., 124 Taxmann.com 801 wherein it was held that the “company had given the houses owned by it, to its Directors for their residences, it is doing so only in the course of his “business”. The principle is that if the owner of a property carries on business with a property owned by him, the income from that property must be assessed as only “income from business”. Since the Tribunal found that the house property had been used by the assessee as a part of the business and treated as business, the finding of the Tribunal that the income from the property could not be assessed separately as income from house property and included in the assessee’s business income, was correct

24.1. Further the Hon’ble Delhi High Court in the case of Triveni Engg. & Industries Ltd., 343 ITR 245 wherein the “loss on account of non-recovery of loan given to employees was treated as loss incidental to business activity, then the interest on such loan falls within the purview of business activity only and not “income from other sources”.

24.2. In the light of the above, we find it fit to remand this issue to the file of the Assessing Officer for verification of the facts with proper materials and allow the claim in accordance with law.

25. In the result, the appeal filed by the Revenue is allowed for statistical purpose.

11. Respectfully following the decision of the Co-ordinate Bench and in the interest of judicial consistency, we are inclined to restore this issue to the file of the Assessing Officer for fresh adjudication. The AO shall verify the nature of each component of the miscellaneous receipts of Rs.18,17,44,000/- and determine whether the same is assessable as business income or income from other sources based on the functional nexus with the business activity of the assessee. The assessee shall be afforded adequate opportunity to produce documentary evidence in support of its claim.

12. In view of the above discussion, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the Court on 9th May, 2025 at Ahmedabad.

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

Ahmedabad, dated 09/05/2025
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