

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA Nos.261 to 265/RPR/2025
निर्धारण वर्ष /Assessment Years : 2012-13 to 2016-17**

Basudeo Real Estate Private Limited
Hira Arcade, First Floor,
Near New Bus Stand, Pandri,
Raipur-492 001 (C.G.)
PAN: AADCV1614K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Assistant Commissioner of Income Tax,
Central-2, Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 20.06.2025

घोषणा की तारीख / Date of Pronouncement : 23.06.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeals preferred by the assessee emanates from the respective orders of the Ld. CIT(Appeals)/NFAC, dated 21.02.2025 for the assessment years 2012-13 to 2016-17 as per the grounds of appeal on record.

2. Both the parties submitted that the facts and circumstances and the issue involved in all these matters are substantially similar and identical. Having heard the parties herein, all these matters are taken up together and disposed off vide this consolidated order.

3. That for illustration of facts, the appeal filed by the assessee in ITA No.261/RPR/2025 for A.Y.2012-13 is taken up as lead matter for adjudication. Needless to say, the said decision shall mutatis-mutandis apply to the other appeals also.

4. The brief facts of the case are that the assessee is a resident company and assessee company has derived income from business and profession of contractors, builders, developers and real estate by undertaking construction job of various nature like highways, streets, parks, bridges, canals, dams, tunnel houses, apartments, duplexes and other construction activities during the year under consideration. In this

case, a search & seizure operation u/s 132 of the Income Tax Act, 1961 [for short 'the Act'] was conducted on the business premises of the Hira Group companies on 29.07.2015. During the search and seizure operation evidences were found which suggested that the assessee company has introduced its unaccounted money into its books of account in the garb of unsecured loans in the mane of fictitious companies through a series of layering transactions using Kolkata based entry operators. Consequently, notices u/s 153C of the Act dt.15.12.2016 was issued to the assessee to file the return for the year under consideration. In response to the said notice, the assessee filed return of income for the year under consideration. All statutory notices were issued in due course and accordingly served on to the assessee in the manner and procedures provided in the Act. The Assessing Officer observed that the unsecured loans of Rs.40,00,000/-was introduced in the assessee company in the previous year 2011-12 in the name of M/s Archidply Industries Limited. The assessee has shown interest expense of Rs.2,41,443/- on the loan amount of Rs.40,00,000/- in ledger account for the previous year 2011-12, which remains outstanding for payment is shown as liability in the books of account of the assessee. The Assessing Officer found that the interest expenditure as shown in the ledger account for the previous year 2011-12 of Rs.2,41,443/-, which is shown as outstanding for payment actually cease to exist is considered as profit and gains from business and

profession of the assessee in the light of section 41(1) of the Act for the year under consideration. Hence, the A.O assessed the income for the year under consideration after added a sum of Rs.40,00,000/- & Rs.2,41,443/-.

5. That being further aggrieved, the assessee carried the matter in appeal before the first appellate authority and the Ld. CIT(Appeals)/NFAC after considering the assessment order, submissions of the assessee and documentary evidence filed by the assessee had held and observed as follows:

“During the course of appeal proceedings, I have perused the entire facts of the assessment order, and also perused the reply of the assessee. I find that the unsecured loans Rs.40,00,000/- was introduced in the assessee company in the previous year 2011-12 in the name of M/s. Archidply Industries Limited. During post search investigation summons u/s 131(A) of the Act were issued by registered post to the creditor company at its address for enquiring the identity, genuineness and creditworthiness of the creditors. However, summons have been returned un-served by the postal department in respect of the lender company as this company was not found at the given address. The lender company during the previous year 2011-12 filed its return of income Rs.(-)19,08,03,555/- and preceding previous year 2010-11 Rs.(-)76,63,867/-. It is evident by seeing the income declared in the return of income the above lender company only exist on paper and they don't have any creditworthiness to lend any money to Hira Group Companies. Moreover, the analysis of balance sheet of these shell companies typically show share capital and reserve (premium) on the liability side and fictitious assets like investment in unquoted shares on the asset side. This shows non-creditworthiness of the above companies which have shown unsecured loans to Hira Group Companies. During the search and seizure action at the residential and office premises at Hira Arcade, Shri B.L. Agrawal, CMD had himself admitted the fact of introduction of bogus unsecured loans in Hira group concerns. It is established that the unsecured loan received by the assessee is its own undisclosed income routed in the books of

accounts in the form of unsecured loan, the liability for payment of interest on the received unsecured loan cease to exist which attract provisions of section 41(1) of the Act. The assessee only emphasis in its reply the addition was made without any evidence and the assessment proceedings u/s 153C of the Act was initiated without any satisfaction note. However, on perused the assessment order, I find that during the search and seizure operation evidences were found which suggested that the assessee company has introduced its unaccounted money into its books of account in the form of unsecured loans in the mane of fictitious companies through a series of layering transactions using Kolkata based entry operators. Hence, the claim of the assessee that the Assessing Officer assessment proceedings u/s 153C of the Act was initiated without any satisfaction note is not found to be correct and at this juncture the creditworthiness of the lender company is not established. Since the assessee company has introduced its unaccounted undisclosed income in its books of accounts in form of unsecured loans, then the interest expenditure as shown in the ledger account of Rs.2,41,443/- which is shown as outstanding for payment is considered as profit and gains from business and profession of the assessee as per provision of section 41(1) of the Act, for the year under consideration. Thus, the addition of Rs.40,00,000/- & Rs.2,41,443/- are confirmed and these grounds of appeal is being dismissed. The assessee also challenged that the Assessing Officer had committed an error in passing the seven-year assessment order in one order u/s 153C of the Act. I have carefully perused the assessment order and find that the Assessing Officer has passed a consolidated order of seven years u/s 153C of the Act. Since this issue is related to each other in all the years, so that the Assessing Officer has passed a consolidated assessment order for brevity and better understanding of the issue. Hence it cannot be said that the Assessing Officer has committed an error in passing the seven-years assessment order in one order u/s. 153C of the Act.”

6. There was a query from the Bench to the Ld. Counsel for the assessee that during the search and seizure action at the residential and office premises at Hira Arcade, Shri B.L Agrawal, CMD had himself admitted the fact of introduction of bogus unsecured loans in Hira group

concern. In this regard, the Ld. Counsel submitted that such admission was not pertaining to group concern which are the subject matter of appeal before the Tribunal and it pertains to some other group. The Ld. Counsel further submitted that the entire addition has been made based on statement of Shri B.L Agrawal, CMD without any corroborative evidence, thus, the addition could not be sustained in absence of any corroborative evidence.

7. The Ld. Sr. DR submitted that the contention raised by the assessee needs ground verification and examination of facts on record and therefore, considering the argument of the Ld. Counsel, the matter needs to be examined once again after conducting due enquiry by the Ld. CIT(Appeals)/NFAC.

8. At this juncture even without going into the merits of the matter considering the arguments of the Ld. Counsel as well as the Ld. Sr. DR, I am of the considered view that the factum of taxation and the facts on record needs ground verification. Further, the Ld. Counsel made a statement that such declaration of Shri B.L Agrawal, CMD does not pertain to the group concern which have been made subject matter of the proceedings before the department. The Ld. Counsel further submitted that the addition has been made without any corroborative evidence therefore is not valid as per law. The Ld. Sr. DR also submitted for a

proper verification at the level of the Ld. CIT(Appeals)/NFAC to justify the taxability in the case of the assessee concern. Considering the totality of facts, in the interest of substantial justice, I set aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter back to its file to pass an order in terms with Section 250(4) & (6) of the Act after detailed verification and enquiry regarding the contention raised by the Ld. Counsel for the assessee before the Tribunal. The Ld. CIT(Appeals)/NFAC may call for a remand report from the A.O as well and thereafter examining and verifying the matter and documents on record in detailed come up with a speaking order. Similarly, the assessee company shall also comply with all hearing notices from the office of the Ld. CIT(Appeals)/NFAC and represent its case on merits.

9. As per the above terms grounds of appeal raised by the assessee are allowed for statistical purposes.

10. In the result, appeal of the assessee in ITA No.261/RPR/2025 for A.Y.2012-13 is allowed for statistical purposes.

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A.Ys.2013-14 to 2016-17

11. As the facts and issues involved in the captioned appeals remains the same as were there before me in ITA No.261/RPR/2025 for A.Y.2012-13, therefore, the observations recorded in that appeal i.e. ITA

No.261/RPR/2025 for A.Y.2012-13 shall mutatis mutandis apply for the appeals filed by the assessee in ITA No.262 to 265/RPR/2025 for A.Ys.2013-14 to 2016-17. In these cases also, I set aside the respective orders passed by the Ld. CIT(Appeals)/NFAC and remand the matter back to its file as per similar terms as were recorded by me in ITA No.261/RPR/2025 for A.Y.2012-13.

12. In the result, appeals of the assessee in ITA No.262 to 265/RPR/2025 for A.Y.2013-14 to 2016-17 are allowed for statistical purposes.

13. In the combined result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in open court on 23rd day of June, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 23rd June, 2025.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur