

आयकर अपीलीय अधिकरण, कोलकाता पीठ "डी", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. Nos. 1091 to 1095/Kol/2025

Assessment Years: 2013-14 to 2015-16 & 2017-18 to 2018-19

DCIT, Circle-1, Siliguri	Vs.	Siliguri Jalpaiguri Development Authority (PAN: AAALS 0290 E)
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	28.07.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	25.08.2025
For the assessee / निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the revenue / राजस्व की ओर से	Shri Sanat Kumar Raha, CIT DR

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

These are the appeals preferred by the revenue against the separate orders of Commissioner of Income Tax (Appeals), -NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 10.03.2025 for AY 2013-14 to 2015-16 & 2016-17 to 2017-18

respectively. Issues are common in all these appeals, hence taken up together for disposal by taking in **ITA No. 1091/Kol/2025 for AY 2013-14** as a lead case.

2. Brief facts of the case of the assessee are that the assessee filed return of income for AY 2013-14 declaring loss of Rs. 3,22,50,330/-. The JAO was in possession of information wherein it was observed that the income of the assessee for the year under consideration has been escaped from assessment. The information is produced as under:

“..... It is seen that the assessee Siliguri-Jalpaiguri Development Authority is a Development Authority established under the West Bengal Town and Country Act, 1979 has been entrusted with the responsibility of Planning and Development of Siliguri Jalpaiguri Planning area. Though the assessee entity is registered as Local Authority as per PAN, the assessee is not entitled to be a local authority after the amendment of Section 10(20) of the Act, 1961 by the Finance Act, 2002. This fact is clearly outlined by the Hon’ble Supreme Court judgment on 12.10.2018 in the case of the Income Tax Officer vs. Urban Improvement Trust. The assessee has also agreed to the point the assessee is no longer a local authority and is not eligible to claim exemption from income tax. Further, it is seen that the assessee filed return of income for AY 2017-18 claiming loss of Rs. 3,2,50,330/- which is due to the claim of interest expenses on the loan taken of Rs. 60,47,76,450/- from Govt. of West Bengal over the year from 1982 to 2011 for execution of various projects. The assessee however has never paid any interest or repaid any portion of the loans to the Govt. of West Bengal. But the assessee has claimed interest expenses in the P & L account on such loans.”

Thereafter notice u/s 148 of the Act was issued to the assessee on 29.03.2021. Further, by virtue of judgment of Hon’ble supreme Court dated 04.05.2022 (2022 SCC online SC 543) (Union of India vs Ashish Agarwal) and CBDT Instruction No. 01/2022 dated 11.05.2022, a letter dated 23.05.2022 was issued to the assessee by the JAO communicating the reasons of reopening, giving him an opportunity to offer his explanation why the income as mentioned above, shall not be treated as income chargeable to tax which has escaped the assessment within the meaning of provision of Section 147 of the Act for the year under consideration. The assessee was given a time

of 2 weeks from the date of receipt of the letter to file its submission along with necessary evidences. However, the assessee had not filed any submissions in response to the said letter. Therefore, the JAO find this case fit for issue of notice u/s 148 and accordingly passed an order u/s 148A(d) of the Act. Thereafter, notice u/s 148 of the Act was issued to the assessee on 19.07.2022. In reply to the notice issued u/s 142(1) of the Act the assessee submitted the financial statement and loan statement for the year under consideration. A show cause notice has also been issued to the assessee asking him as to why the interest expenditure claimed by it should not be disallowed and added back to the total income of the assessee. In response to the same, the assessee submitted reply but the AO after considering the submission made by the assessee held that in spite of sufficient opportunity to the assessee, he did not submit the complete details to justify the expenses of interest of Rs. 86,02,499/- in its profit and loss account for the year under consideration and assessed income of the assessee at Rs. 5,37,74,669/-.

3. Aggrieved by the order, the assessee preferred an appeal wherein the appeal of the assessee has been allowed in which the Ld. CIT(A) directed to delete the addition made.

Being aggrieved and dissatisfied the revenue preferred an appeal before us.

4. The Ld. D.R challenges the very impugned order thereby submitting that the Ld. CIT(A) was not justified both in law and facts in deleting the disallowance made by the AO without taking into account the fact that the assessee failed to furnish a loan agreement between the lender and operators which was necessary to determine whether the loan was obtained for the purpose of business or not and whether interest payable thereon there to accounted for own payment basis or accrual basis.

5. Contrary to that the Ld. A.R supports the impugned order thereby submitting that the assessee, Siliguri Jalpaiguri Development Authority is an organization established under West Bengal town and Country Act, 1979 has been entrusted with the responsibility of planning and development of Siliguri Jalpaiguri Planning area. The assessee vehemently submits that the application of section 43B is not at all applicable

as the Government of West Bengal does not fall under the definition with public financial institution and the loan was taken from Govt. of West Bengal that do not fall under the definition of public financial institution of Section 43B(d) of the Act. The Ld. A.R placed a decision of the Hon'ble Calcutta High Court passed in PCIT vs. M/s West Bengal Agro Industries Corporation Ltd.. The Ld. A.R submits that there is no infirmity in the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, there is no denying to this fact that the assessee is a local body has been established by the Govt. of West Bengal for the infra structure development in the Siliguri and Jalpaiguri region. It is pertinent to mention here that the assessee provided every possible document which were available with the Govt. department such as establishment paper, loan sanction papers, loan utilization certificate, loan and interest repayment done and closing balance. We further find that the funding for the development of the Siliguri Jalpaiguri region of the West Bengal was directly by the State Government and it is evident from the audited balance sheet. It is important to mention here that the assessee had incurred interest expenditure on fund/ loan received from State Government in earlier year and no new fund was received during the year. We have gone through the order of Hon'ble Calcutta High Court passed in the case of PCIT vs. M/s West Bengal Agro industries Corporation Ltd. in IA No. GA 2 of 2020 GA No. 317 of 2020 ITA No. 45 of 2020 dated 4.1.2021 wherein it has been held as under:

“We have perused the reasons given by the learned tribunal in paragraph 4 of its impugned order dated 18th July, 2018. It has ruled that section 43B(d) has no application to the loan taken by the assessee from the Government. As the loan in question was taken by the respondent assessee from the Govt. of West Bengal, it held that Section 43B(d) was not applicable and allowed the ‘Provision for Rs. 15,02,64,000/- ‘ in respect of the said loan.”

7. The Ld. CIT(A) in its findings has also discussed the order of Hon'ble Calcutta High Court and thereafter allow the appeal of the assessee. It is also important to mention here that the assessee has also uploaded the documents which were submitted by the assessee before the AO and documents are as follows:

1. Annexure 1: Reply filed in response to notice u/s 142(1) on 04.02.2023.
2. Annexure 2: Audited Financial Statement for FY 2012-13.
3. Annexure 3: Computation of Income AY 2013-14.
4. Annexure 4: ITR-V filed u/s 139(1) for AY 2013-14.
5. Annexure 5: ITR Form filed u/s 139(1) for AY 2013-14.
6. Annexure 6: ITR filing screenshot u/s 148(1) for AY 2013-14.
7. Annexure 7: ITR Form filed u/s 148 for AY 2013-14.
8. Annexure 8: Acknowledgement of filing of submission alongwith documents on 04.02.2023.
9. Annexure 9: 2nd Reply filed in response to notice u/s 142(1) on 14.04.2023.
10. Annexure 10: Loan Statement.
11. Annexure 11: Acknowledgement of filing of submission alongwith documents on 14.04.2023.
12. Annexure 12: Show-cause notice reply filed on 15.05.2023.
13. Annexure 13: SJDA establishment documents.

8. Keeping in view the facts of the case as well as the order passed by the Ld. CIT(A), we are not inclined to interfere in the impugned order. Accordingly, the appeal of the revenue is dismissed.

9. The issue raised in all the appeals are similar to one as decided by us in ITA No. 1091/Kol/2025 for AY 2013-14. Therefore, our decision in ITA No. 1091/Kol/2025 for AY 2013-14 would mutatis mutandis, apply to these appeals as well. Accordingly, all the appeals of the revenue are here by dismissed.

In the result, all the appeals of the revenue are dismissed.

Order is pronounced in the open court on 25th August, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated:25th August, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, Circle-1, Siliguri
2. Respondent – Siliguri Jalpaiguri Development Authority, SJDA Building, Tenzing Norgay Road, Pradhan Nagar, Siliguri, Siliguri-734003
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata