

| आयकर अपीलीय अधिकरण न्यायापीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"I" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&

SHRI ANIKESH BANERJEE, HON'BLE JUDICIAL MEMBER

I.T.A. No. 709 & 710/Mum/2025

Assessment Year: 2020-21 & 2021-22

BCP IV India PLL Pte. Ltd. Block#19-00, Collyer Quay Centre 16, Collyer Quay Signapore - 049318 [PAN: AAGCB7522H]	Vs	Deputy Commissioner of Income-Tax, Int. Tax Circle, 1(2)(2), Mumbai/ADIT, CPC, Bengaluru
अपीलकर्ता/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Dhanesh Bafna/Shri Hardik Nirmal & Ms. Hinal Shah, A/Rs
Revenue by :	Shri Krishna Kumar, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 02/09/2025

घोषणा की तारीख /Date of Pronouncement : 04/09/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

I.T.A. No. 709 & 710/Mum/2025, are two separate appeals by the assessee preferred against two separate orders of the Id. CIT(A) - 55, Mumbai [hereinafter "the Id. CIT(A)"] dated 22/11/2024 pertaining to AY 2020-21 and 2021-22.

2. Since common grievance is involved in both the appeals, they were heard together and are disposed off by this common order for the sake of convenience and brevity.

3. Since we have heard the parties on the facts of AY 2020-21, the grievance reads as under:-

"Each of the grounds of appeal are independent of, and without prejudice to one another:

1. On the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals) ['CIT(A)'] erred in not exercising the powers under section 251 of the Income-tax Act, 1961 (' the Act') and allowing the Appellant's claim for

computing the tax liability on interest income of INR 43,04,50,420 at the rate of 5 percent (plus applicable surcharge and cess thereon) under the provisions of section 115AD read with section 194LD of the Act.

1.1. While doing so, the Ld. CIT(A), erred in:

- i. Not appreciating that the provisions of section 90 r.w.s 194LD of the Act were more beneficial to the Appellant vis-a-vis the India-Singapore Double Taxation Avoidance Agreement ('DTAA');*
- ii. Not appreciating that under Article 265 of the Indian Constitution, taxes can only be levied or collected by authority of law;*
- iii. Not considering the Circular No.14(XI-35) dated 11 April 1955 issued by the Central Board of Direct Taxes ('CBDT').*

The Appellant craves leave to add, amend, substitute, withdraw, modify, alter and / or re-instate all or any of the foregoing Grounds of Appeal on or before the time of hearing and to submit such statements, documents and papers as may be considered necessary either at or before the time of hearing."

4. Briefly stated the facts of the case are that while filing the return of income, the assessee has computed the tax liability on interest income of Rs. 43,04,50,420/- at the rate of 15% u/s 90(2) of the Act read with Article 11(2)(b) of the India Singapore Tax Treaty and the same was processed by the CPC u/s 143(3) of the Act. Subsequently, a rectification application u/s 154 of the Act was filed by the assessee but the CPC/AO did not entertain the claim of the assessee and when the claim was made before the Id. CIT(A), the Id. CIT(A) agreed that no such option of adding, altering or modifying the claim can be made by the assessee.

5. We have carefully perused the order of the Id. CIT(A). It is true that while filing the return of income, the assessee has computed the tax liability on interest income @ 15% whereas as per the treaty with Singapore, the applicable tax rate comes to 5% plus surcharge and cess thereon under the provisions of Section 115AD r.w.s. 194LD of the Act. We are of the considered view that the revenue should not be benefitted by the wrong application of tax rates. We, therefore, restore this issue to the file of the AO. The assessee is directed to furnish evidence and

demonstrate that the applicable tax rate is 5% with surcharge and cess thereon and the AO is directed to verify the claim as per the provisions of law and if found correct, allow the claim.

6. In the result, both these appeals are allowed for statistical purposes.

Order pronounced in the Court on 4th September, 2025 at Mumbai.

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 04/09/2025

SL/S/P

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai