

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SMT. RENU JAUHRI, ACCOUNTANT MEMBER
ITA No. 5449/MUM/2025 (AY: 1999-2000)
ITA No. 5452/MUM/2025 (AY: 2008-09)
ITA No. 5453/MUM/2025 (AY: 2009-10)**

(Physical hearing)

DCIT, Mumbai 420, 4 th Floor, Kautilya Bhawan, G Block, BKC, Bandra (East), Mumbai – 400051.	Vs	Pratima Hitesh Mehta 32, Dr. Anne Besant Road, Worli, Mumbai – 400018. [PAN: ABNPM8226G]
Appellant / Revenue		Respondent / Assessee

Assessee by	Shri Dharmesh Shah, Advocate a/w Ms. Mitali Parekh, Advocate
Revenue by	Dr. P. Daniel, Advocate (Special Counsel)
Date of Institution	30.08.2025
Date of hearing	04.11.2025
Date of pronouncement	11.11.2025

Order under section 254(1) of Income Tax Act

PER BENCH:

1. These three appeals by revenue are directed against the order of Id. CIT(A) all dated 30.01.2025 for A.Y. 1999-2000, 2008-09 & 2009-10. In all three appeals, the revenue has raised certain common grounds of appeal in all the years, facts in all the years are almost similar except variations of figure of disallowance of expenses for earning interest income, thus, with the consent of both the parties all the appeals were clubbed, heard together and are decided by common order. For appreciation of fact, facts in A.Y. 2009-10 in ITA No. 5453/M/2025 is taken as lead case. The revenue has raised following grounds of appeal:

"1. Whether on the facts and in the circumstances of the case, the Ld. CIT(A) is justified in restricting the interest expenditure under section 57 of the

Income Tax Act, 1961, to the extent of interest income earned/offered without appreciating the facts that burden of proof to substantiate the claim lies with the assessee that the interest expenditure was genuine & for business purpose?"

2. "Whether the Ld. CIT(A) misapplied the law by not drawing an adverse inference against the assessee, as permitted by the Hon'ble Supreme Court's ruling in CIT vs. BEST Co. Ltd (60 ITR 11), when the assessee failed to produce evidence exclusively in their possession to substantiate the interest expenditure claim?"

3. The appellant craves to leave to add, to amend and / or to alter any of the ground of appeal, if need be".

2. Rival submissions of both the parties have been heard and record perused.

The learned authorised representative (Id. AR) of the assessee submits that all the appeals are in second ground of appeal before Tribunal. In first round of appeal, the issue was set aside to the file of Id. CIT(A) to decide the issue afresh. The Id. CIT(A) allowed relief to the assessee on the basis of series of decision by Tribunal in assessee's own case or in case of family members. So far as, the appeal for A.Y. 1999-2000 in ITA No. 5449/Mum/2025 is concerned, the same is not maintainable as the tax effect in this appeal is below the threshold limit for filing appeal before Tribunal. The total tax effect in the said appeal has mentioned by assessing officer himself is only Rs. 18,59,927/-, the case does not fall in any exception clause of any circular issued by Central Board of Direct Taxes (CBDT) from time to time. So far as other appeals are concerned, the Id. AR of the assessee submits that pursuant to the notification or security scam in 1992 which is commonly known as Harshad Mehta Security Scam, all assets and liabilities of assessee is control of Custodian appointed by the

Special Court (Trial of Offences Relating to Transactions in Securities Act 1992). The interest expenses claimed on outstanding liability in the name of broker from whom shares and securities were acquired on credit over the years till January, 1992. As a result liabilities arose in the name of brokerage firm arising on account of purchase and sale of securities remained understanding as on the date of notification on which interest was payable by the assessee as per term agreed with the brokerage firm. The assessing officer while passing the assessment order not allowed said expenditure while computing income on various reasons. On similar reasons, the assessing officer disallowed interest expenses in other years as well. The cases of assessee as well as her family members were adjudicated by Tribunal wherein similar disallowances were deleted. On the basis of such decision, the Id. CIT(A) allowed relief to the assessee. The Id. AR of the assessee submits that similar disallowances were allowed in case of Sudhir S Mehta vs DCIT and Ors. [ITA No. 5799/M/2015], Pratima Mehta vs DCIT [ITA No. 5839/M/2018] & Pratima Hitesh Mehta vs DCIT [ITA No. 416 & 1180/M2023]. Recently, Mumbai Tribunal in case of A.Y. 1992-93 in ITA 232/M/2025 dated 17.10.2025 allowed similar relief by following decision of earlier years. Thus, grounds of appeal raised by revenue is in fact covered in favour of the assessee.

3. On the other hand, the Id. Special Counsel for revenue supported the order of assessing officer. There is no nexus of interest earned and interest liability. The expenditure is allowed on notional income. The base year on

the basis of which the assessee is claiming that issue is covered, the revenue has already filed appeal before High Court, thus, the issue has not attained finality.

4. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We find that tax effect in appeal for A.Y. 1999-2000 in ITA No. 5449/Mum/2025 is less than the monetary limit prescribed by CBDT for filing appeal before Tribunal. Therefore, appeal for A.Y. 1999-2000 in ITA No. 5449/Mum/2025 is dismissed as not maintainable.
5. So far as appeals for two other assessment years that is AY 2008-09 & 2009-10 is concerned, we find that the grounds of appeal raised by revenue is squarely covered by a series of decision as relied by Id. AR of the assessee. And similar objection of the revenue has been considered in earlier years order. We further find on similar ground of appeal in A.Y. 1992-93, in ITA No. 232/M/2025, the assessee was relief in order dated 17.10.2025 by passing the following order:

"7. Ground no. 4 is in respect of deduction of interest expenditure of Rs. 2,46,33,261/- claimed by the assessee which was directed by the Coordinate Bench in the aforesaid order for granting relief to the assessee. Ld. AO failed to give effect to the direction given by the Coordinate Bench on this issue. Ld. CIT(A) though has noted that direction so given by the Coordinate Bench has not been considered by the AO, yet remanded the matter back to the file of Id. AO for the purpose of verification and give effect to the direction of the Coordinate Bench. In this respect, we perused the order of the Coordinate Bench to note that it has very specifically and in clear terms held that assessee is entitled to claim deduction of interest expenditure u/s.57 since

receipt of dividend is merely due to the shareholding of the assessee and interest expenditure has nexus with the income under the head 'income from other sources', including dividend income even though not direct. Coordinate Bench, thus directed the Id. AO to allow the interest expenditure claimed by the assessee u/s.57 of the Act. There is no whisper about any verification in this regard, while allowing the claim of interest expenditure. Relevant paragraphs of the decision of the Coordinate Bench in this respect are extracted below:

"30. We have considered the submissions of both sides and perused the material available on record. From the perusal of the computation of total income, forming part of the paper book on pages 464-466, we find that the assessee claimed interest on bank loans of Rs. 2,46,33,261 against the income under the head "income from other sources". It is evident from the record that the learned CIT(A) placed reliance upon the decision of the Hon'ble jurisdictional High Court in CIT v/s Jagmohandas J. Kapadia, [1966] 61 ITR 663 (Bom.), in order to support the conclusion that unless the Interest expenditure was incurred solely for the purposes of making or earning dividend income, no deduction as possible under section 57 of the Act. The relevant findings of the Hon'ble jurisdictional High Court in the aforesaid decision, as relied upon in the impugned order, are as under:- "It would be noticed that what is allowable as expenditure under the said subsection is only the expenditure incurred solely for the purpose of making or earning dividend income. Emphasis thus appears to be on the object or purpose of incurring of the expenditure. The exclusive object of incurring the expenditure has to be the making or earning of the dividend income. The mere fact that income by way of dividend has accrued and that the expenditure incurred is in some manner or other related to the accrual of the dividend Income is not sufficient." 31. We find that the Hon'ble Supreme Court In Seth R. Dalmia v/s CIT, [1977] 110 ITR 644 (SC) agreed with the view taken by the Hon'ble jurisdictional High Court in CIT v/s H.H. Maharani VijaykuverbaSaheb of Morvi [1975] 100 ITR 67 (Bom), wherein it was held that the connection between the expenditure and the earning of income need not be direct, and even an indirect connection could prove the nexus between the expenditure incurred and the income. We further find that in CIT v/s Smt. Sushila Devi Khadaria, [2009] 319 ITR 413 (Bom.), in a similar factual matrix, i.e. wherein the AO denied the deduction claimed under section 57(iii) of the Act on the basis that the expenditure was not incurred wholly for the purpose of earning income as the taxpayer was engaged in selling shares in the stock market and the dividend income had accrued as a by-product, the Hon'ble jurisdictional High Court by placing reliance upon the aforesaid decision of the Hon'ble Supreme Court in Seth R. Dalmia (supra), upheld the allowance of finance expenditure as deduction under section 57(iii) of the Act against the income by way of dividends, finance charges and interest which were shown as income from other sources by the taxpayer. Therefore, respectfully following the aforesaid decision of the Hon'ble Supreme Court in Seth R. Dalmia (supra), we are of the considered view that the assessee is entitled to claim a deduction of interest expenditure under section 57 of the Act since receipt of dividend is merely due to

the shareholding of the assessee and the Interest expenditure has nexus with the income under the head "Income from other sources" including dividend income even though not direct. Accordingly, the AO is directed to allow the interest expenditure claimed by the assessee under section 57 of the Act. As a result, ground No. 3 raised in assessee's appeal is allowed, while ground No. 2 and 3 raised in Revenue's appeal is dismissed.

7.1 In the present case, Id. CIT(A) has despite holding that the contention of the assessee is correct and Id. AO having failed to give effect to the said direction, remanded the matter for verification and give effect based thereon. In terms of the above findings of the Coordinate Bench, Id. AO is directed to allow the claim of interest expenditure claimed by the assessee as a deduction u/s.57. Ground no. 4 is allowed.

6. We further find that on similar grounds of appeal in assessee's group case in Harsh Estate Pvt. Ltd. in A.Y. 2013-14 to 2015-16 on similar grounds of appeal, the similar relief was allowed to that assessee. Thus, following the principle of consistency and respectfully following the order of Tribunal, we do not find any merit in the grounds of appeal raised by revenue. In the result, grounds of appeal raised by revenue in A.Y. 2008-09 and 2009-10 are dismissed.
7. In the result, appeals of the revenue for AY 2008-09 & 2009-10 are also dismissed.

Finally, all the appeals of revenue in all three years are dismissed.

Order was pronounced in the open Court on 11/11/2025.

Sd/-

RENU JAUHRI
ACCOUNTANT MEMBER

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

MUMBAI, Dated: 11/11/2025
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai