

IN THE INCOME TAX APPELLATE TRIBUNAL

"G" BENCH, MUMBAI

BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.595/MUM/2023
(Assessment Year: 2014-15)

M/s. Sapphire Fintech Private Limited

6th Floor-1, Plot 165,

161/169 Hirachand Fulchand Trust Building,

Perin Nariman Street, Fort,

Mumbai – 400001

PAN: AAHCS0312H

..... Appellant

v/s

**Deputy Commissioner of Income Tax -
3(3)(1),**

Room No.609, Aayakar Bhavan,

M.K. Road, Mumbai,

Mumbai – 400020

..... Respondent

Assessee by : Shri Mahaveer Jain, Adv.

Shri Shobit Mishra, Adv.

Revenue by : Shri Swapnil Choudhary, Sr.AR

Date of Hearing – 17/11/2025

Date of Order – 02/01/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 04.01.2023, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals) – National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], for the assessment year 2014-15.

2. In this appeal, the assessee has raised the following grounds of appeal:-

"1. The Learned Commissioner of Income Tax (Appeals) erred in law and facts in confirming the disallowance of interest expense amounting to Rs.7,21,660/- on account of the loans being treated as non-genuine.

2. The Learned Commissioner of Income Tax (Appeals) erred in law and facts in not allowing a sum of Rs.9,00,000/- inadvertently disallowed by the Appellant in the return of income without correctly appreciating that the rationale of Goetze (India) Ltd. vs. CIT 284 ITR 323 (SC).

3. The Learned Commissioner of Income Tax (Appeals) erred in law and facts in confirming the action of the Ld. Assessing officer in not allowing set off of brought forward loss of Rs.20,27,918/- and unabsorbed depreciation of Rs.35,956/- while assessing total income."

3. Ground No.1, raised in assessee's appeal, pertains to the disallowance of interest expenses on loans treated as non-genuine/bogus in preceding years.

4. We have considered the submissions of both sides and perused the material available on record. The brief facts of the case pertaining to this issue, as emanating from the record, are that for the year under consideration, the assessee filed its return of income on 02.01.2015, declaring a total income of Rs. 22,860/-. The return filed by the assessee was selected for scrutiny, and statutory notices under section 143(2) and section 142(1) were issued and served on the assessee. During the assessment proceedings, it was observed that the assessee has claimed deduction of interest expenses amounting to Rs.7,21,660/- in respect of loans taken from Kailash Enterprises and Avi Exports. As these loans were treated as non-genuine and bogus during the assessment proceedings for the assessment years 2007-08 and 2010-11, the Assessing Officer ("AO"), vide order dated 26.12.2016 passed under section 143(3) of the Act, disallowed the interest expenses claimed by the assessee on the non-genuine/bogus loans. The learned CIT(A), vide impugned

order, upheld the disallowance in respect of interest expenditure on similar lines. Being aggrieved, the assessee is in appeal before us.

5. During the hearing, the learned Authorized Representative ("*learned AR*") submitted that the Co-ordinate Bench of the Tribunal in assessee's own case in Sapphire Fintech Pvt. Ltd. vs. DCIT, in ITA No.592 and 593/Mum/2023, for the assessment years 2007-08 and 2010-11, vide order dated 17.10.2025, has restored the matter to the file of the AO for *de novo* adjudication. Accordingly, the learned AR submitted that since the issue of whether the loan taken by the assessee from the afore-noted entities is non-genuine / bogus is pending for fresh consideration before the AO, the allowability of interest expenditure on these loans may also be restored to the AO for consideration afresh.

6. The learned Departmental Representative ("*learned DR*") could not bring any material available on record contrary to the submissions of the learned AR.

7. Having considered the submissions of both sides and perused the material on record, we deem it appropriate also to restore this issue of allowability of interest expenditure on loans taken from Kailash Enterprises and Avi Exports to the file of the AO for *de novo* adjudication, as the nature of these loans has already been restored to the file of the AO by the Co-ordinate Bench of the Tribunal, vide order dated 17.10.2025 cited supra, for the assessment years 2007-08 and 2010-11. Accordingly, the impugned order

on this issue is set aside, and Ground No.1 raised in the assessee's appeal is allowed for statistical purposes.

8. Ground No.2, raised in assessee's appeal, pertains to not allowing a sum of Rs. 9 Lakh, which was inadvertently disallowed by the assessee while filing its return of income.

9. We have considered the submissions of both sides and perused the material on record. During the assessment proceedings, the assessee vide its letter dated 21.11.2016 submitted that while computing the total income, it had inadvertently disallowed an amount of Rs. 9 Lakh under section 36 of the Act and the said mistake was noticed during the course of assessment proceedings. The assessee further submitted that since the due date for revising the return has elapsed, it could not revise its return of income and therefore, filed the revised computation of total income, requesting to disregard the suo motu disallowance of Rs. 9 Lakh made by the assessee.

10. The AO, vide order passed under section 143(3) of the Act, disagreed with the submissions of the assessee on the basis that there is no provision under the Act to make an amendment in the return of income by way of an application at the assessment stage without revising the return. In this regard, the AO placed reliance upon the decision of the Hon'ble Supreme Court in the case of Goetze India Ltd. vs. CIT, reported in (2006) 284 ITR 323 (SC). The learned CIT(A) vide impugned order, dismissed the ground raised by the assessee on this issue by placing reliance on the decision in the case of Goetze India Ltd. (*supra*). Being aggrieved, the assessee is in appeal before us.

11. Having considered the submissions of both sides and perused the material available on record, at the outset, it is pertinent to note that the Hon'ble Supreme Court in Goetze India Ltd. (*supra*) and the Hon'ble Bombay High Court in CIT vs. Pruthvi Brokers & Shareholders Pvt. Ltd., reported in (2012) 349 ITR 336 (Bom), have held that the appellate authority can entertain a fresh claim made by the assessee. We find that similar findings have been rendered by the Hon'ble Madras High Court in CIT vs. Abhinitha Foundation Pvt. Ltd., reported in (2017) 396 ITR 251 (Mad.). Therefore, we are of the considered view that the learned CIT(A) erred in rejecting the claim of the assessee in this regard.

12. Having perused the computation of total income filed by the assessee along with its return of income, forming part of the paper book on page 13, we find that the assessee has disallowed and made an addition of Rs.9 Lakh by stating it to be on "*ad hoc* basis". We further find that there is no other information regarding the said disallowance. Therefore, we are of the considered view that the basis for making the aforesaid disallowance requires examination. Needless to mention, it is a trite law that the assessment proceedings before the taxing authority are to assess the correct tax liability of the assessee. Accordingly, we restore this issue to the file of the AO for *de novo* adjudication with the direction to examine the nature of the *ad hoc* disallowance made by the assessee. In this regard, the assessee is also directed to furnish all the information in respect of its claim and as sought by the AO. Accordingly, the impugned order on this issue is set aside, and Ground No.2 raised in the assessee's appeal is allowed for statistical purposes.

13. Ground No.3 raised in assessee's appeal pertains to not allowing the set off of brought forward losses and unabsorbed depreciation while assessing the total income.

14. We have considered the submissions of both sides and perused the material available on record. In its appeal before the learned CIT(A), the assessee raised a ground that the AO, while computing the total income of the assessee, had not set off or brought forward business losses and unabsorbed depreciation from the assessed business income and other income. The assessee further submitted that these brought forward business losses and unabsorbed depreciation pertain to the assessment years 2009-10, 2011-12, 2013-14. The learned CIT(A), vide impugned order, held that the set off of brought forward business losses and unabsorbed depreciation of preceding years, as noted above, is consequential to various additions which are confirmed in earlier years. Being aggrieved, the assessee is in appeal before us.

15. During the hearing, the learned AR reiterated the submissions made by the assessee before the lower authorities.

16. Having considered the submissions and perused the material available on record, we find that the assessment proceedings for the assessment years 2007-08 and 2010-11 have been restored by the Co-ordinate Bench of the Tribunal to the file of the AO for *de novo* adjudication. Further, we find that the assessee has also filed an appeal before the Tribunal for the assessment year 2012-13, and its outcome shall also have a bearing on the claim of

allowance of brought forward losses and unabsorbed depreciation while assessing the total income for the year under consideration. Therefore, we agree with the findings of the learned CIT(A) that the same is consequential to the additions made in the earlier years. Accordingly, we do not find any infirmity in the findings of the learned CIT(A) on this issue. However, in the interest of justice, we restore this issue to the file of the AO to allow the claim of brought forward losses and unabsorbed depreciation, if available as per law, after taking into consideration the additions made in the previous years. As a result, Ground No.3 raised in the assessee's appeal is allowed for statistical purposes.

17. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 02/01/2026

**Sd/-
PRABHASH SHANKAR
ACCOUNTANT MEMBER**

**Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 02/01/2026

Prabhat

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.