IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, GOA

BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No. 085/PAN/2020

Assessment Years: 2009-10

M/s Zuari Management Services Ltd.
(Erstwhile Zuari Infrastructure & Developers
Ltd., formerly Zuari SEZ Ltd.)
Jai Kisaan Nagar, Zuari Nagar, Goa.
PAN: AAACZ2903Q . . . . . ***Appellant***

V/s

Dy. Commissioner of Income Tax,
Circle-1, Margao, Goa. . . . . ***Respondent***

Represented

Assessee by: Mr Salil Kapoor ['Ld. AR']
Revenue by: Mr Senthil Kumar N ['Ld. DR']
Date of conclusive Hearing : 29/01/2026
Date of Pronouncement : 06/02/2026

ORDER

PER G. D. PADMAHSHALI;

This assessee's appeal filed u/s 253(1) of the Income-tax Act, 1961 ['**the Act**'] impugns the order dt. 25/02/2020 passed u/s 250 of the Act by Commissioner of Income Tax(Appeals-1), Panaji ['**Ld. CIT(A)**'] which sprung out of order dt. 18/02/2015 passed u/s 143(3) r.w.s. 263 of the Act by DCIT, Circle-1, Margao Goa ['**Ld. AO**'] for assessment year 2009-10.['**AY**']

2. ***Briefly stated pertinent facts of the case are such that;***

2.1 The assessee is a private limited company filed its return of income on 19/09/2009 declaring total taxable income of ₹NIL with a claim for carry forward ['c/f'] of business loss ['BL'] of ₹3,61,09,708/- and long-term capital loss ['LTCL'] of ₹46,51,437/-. Subsequent to processing of said return summarily u/s 143(1) of the Act, the case of the assessee vide notice dt. 28/12/2011 was selected for scrutiny and an assessment u/s 143(3) of the Act was passed whereby returned NIL income with claim for c/f of BL and LTCL ['losses'] was accepted without variation.

2.2 Subsequently, the case of the assessee was subjected to revision u/s 263 of the Act and by order dt. 28/01/2014 the Ld. CIT, Panaji set-aside the assessment order and remitted the case for *de-nova* assessment after verification of claim for c/f of losses.

2.3 Pursuant to Ld. CIT's revisionary directions contained in order farmed u/s 263 of the Act, the Ld. AO reconsidered the factual material & submission of the appellant a fresh and reframed an assessment u/s 143(3) r.w.s. 263 of the Act wherein three additions were made first time viz; (1) disallowance of ₹3,56,51,678/- u/s 36(1)(iii) r.w.s. 37(1) of the Act representing interest paid to Holding company on deposits received from it, which in turn advanced to subsidiary without the payment of interest (interest waived off). (2) disallowance of Audit fees/remuneration of ₹82,725/- u/s 37(1) of the Act being not related to business activities of the assessee and (3) A miscellaneous expenses of ₹68,279/- incurred towards ROC Charges, legal & other expenses etc., was disallowed u/s 37(1) for the want of documentary evidence & in absence of corroborative explanation etc.

2.4 Aggrieved assessee challenged former assessment in an appeal u/s 246A r.w.s. 249 of the Act before the Ld. CIT(A) but remained unsuccessful.

2.5 Aggrieved by the actions of tax authorities below, the assessee company came in present appeal on following revised grounds;

1. That in view of the facts and circumstances of the case, the assessment order dated 18.02.2015 passed by the Assessing Officer ("A.O.") under section 143(3) r.w.s. 263 of the Income-tax Act, 1961 ("the Act") for assessment year ("AY") 2009-10, and the disallowances made therein, which are wrongly upheld by the Commissioner of Income Tax (Appeals) ["CIT(A)"], are illegal, bad in law, without any application of mind and without judicious consideration of facts and material on record.

2. That, in view of the facts and circumstances of the case, A.O. on facts and in law in holding that the business of the Appellant/Assessee had not commenced during the year under consideration, without appreciating that the business of the Appellant was

already setup and commenced during Financing Year ("FY") 2007-08 relevant to AY 2008-09, being the first year of business, and deduction under section 35D of the Act was allowed for the said AY.

3. That, in view of the facts and circumstances of the case, the A.O. has erred on facts and in law in disallowing the interest expenditure amounting to Rs. 3,56,51,678/-u/s 36(1)(iii) r.w.s. 37(1) of the Act, without appreciating that the same was incurred in the course of its business and hence, was allowable as expenditure.

4. That, in view of the facts and circumstances of the case, the A.O. has erred on facts and in law in disallowing the expenditure incurred on account of the auditor fee of Rs 82,725/-, without appreciating that the said expenditure was on account legal statutory obligation to get the financial statement audited under the Companies Act and hence, the same is allowable u/s 37 of the Act.

5. That, in view of the facts and circumstances of the case, the A.O. has erred on facts and in law in disallowing the miscellaneous expenditure amounting to Rs. 68,2791-(ROC charges amounting to Rs. 3,546/-

and legal expenditure amounting to Rs. 24,900/-), without appreciating that the said expenditure was in respect of its business and hence, the same is allowable u/s 37 of the Act.

6. That, in view of the facts and circumstances of the case, the A.O. has erred on facts and in law in levying interest under section 234B of the Act, as the tax payable after the additions is less than Rs.5,000/- and hence, no interest u/s 234B is chargeable.

3. We have heard rival party's arguments & submissions and subject to rule 18 of Income Tax Appellate Rules, 1963 ['ITAT-Rules'] perused the material placed on records and considered the facts in the light of settled position of law which are forewarned to the party concerned for rebuttal.

4. **The Ground No 1** being general in nature for which rival parties could hardly make submissions or arguments for adjudication. The ground being so without much deliberation stands dismissed.

The Ground No 2: Commencement of business

5. The Ground No 2 alleges the findings of the tax authorities based on upon which twin disallowance u/s 37(1) of the Act were made namely (i) audit fees and (ii) Misc expense etc. It the case of the Revenue that, the appellant did not commence its activities or business therefore the expenditure claimed u/s 37(1) of the Act cannot be allowed. This finding amongst other also founded one of the base for rejecting the claim for deduction of audit fees (ground no 4) and miscellaneous expenditure (ground no 5). These disallowances are separately agitated therefore adjudicated together for brevity & completeness.

6. In context of impugned disallowances; the appellant has convincingly established on record that; it was incorporate as 'Zuari SEZ Ltd' on 06/12/2006 and certificate of commencement ['CoC']

of business (Pg 1 of P/B) was granted to it by Ministry of Corporate Affairs ['MCA'] / Registrar of Companies ['ROC'] on 04/04/2007. The subsequent change in name & object did not in law required fresh COC. Therefore, the only CoC allotted to the appellant was sufficient & conclusive proof of commencement business in context of impugned disallowances. Such CoC is acceptable as corroborative statutory evidence to prove that the appellant's business has already commenced in AY 2008-09. We also note that, the return filed for the preceding AY 2008-09 wherein the like expenses claimed as deductible as revenue were duly allowed by the respondent without scrutiny assessment u/s 143(1) of the Act.

7. The commencement of business operation of the appellant as recognised under the Companies Act by issuance of CoC in our considered view is *ispo-facto*

sufficient to support the claim for impugned deductions as these deductions in law does not require timebound & specific commencement by way of any approval, action or activities etc.,

8. On the other hand, in the immediately preceding year the Revenue since already accepted so, therefore the Revenue in law cannot be permitted to de-recognise commencement status of appellant without any deprecative material but for merely change in name & object of the appellant company. We say so because in Company Law, the CoC is issued once in lifetime initially, irrespective of change in name or object of the company subsequent to such issuance of CoC. In view thereof, the finding rendered by tax authorities below in context of former twin expenditure stands vacated as perverse. The ground no 2 thus stand allowed.

Ground No 4: Audit Fees

9. We note that, the audit fees amounting to ₹82,725/- claimed u/s 37(1) of the Act were disallowed by the tax authorities below on twofold premise viz; (i) the appellant has not commenced its business activities and (ii) such expenditure was not wholly & exclusively incurred for the purpose of business as the turnover did not exceed threshold limit set, therefore was not required to get its books audited u/s 44AB of the Act.

10. In view of our adjudication on ground no 2 the first premise of disallowance since already vacated, therefore coming directly to later premise we note that there is no dispute between rival parties that, the impugned audit fees claimed u/s 37(1) of the Act was not a mere provision in books but actual sum paid by the appellant in the year under consideration.

11. The appellant is an incorporated company under Companies Act, 1956 ['CA'] and therefore irrespective of applicability of audit under any other statute, the books of the appellant were subjected to mandatory audit as per section 209, 224 to 233 of CA (supra). Insofar as the tax audit u/s 44AB of the Act is concerned, though turnover exceeding threshold limit mandates such audit as '*compliance*', but there is no bar in law to get the books otherwise audited u/s 44AB of the Act to ensure compliance of other applicable provisions of the Act viz; TDS compliance, section 40(b)(v) & section 43B claims etc.

12. Generally for allowability of expenditure u/s 37(1) of the Act what is necessary to be examined is five-fold test viz; (i) expenditure is ***revenue & not capital***, (ii) expenditure is ***incurred during the previous year*** relevant to assessment year under

consideration, (iii) expenditure is incurred ***wholly & exclusively*** for the purpose of business, (iv) expenditure is ***not in the nature of personal expenditure*** and lastly (v) expenditure is not falling & not claimed in any of the provisions ***section 30 to 36 of the Act.***

13. There is no dispute that, impugned audit fees was paid for the audit of appellant's books for the year under consideration. The appellant's books represent appellant's operation & activities, may it be a single or solitary transaction, and remotely there could be no transaction at all, even though such books under the provisions of CA(supra) are subjected to compulsory audit and so is the case u/s 44AB of the Act even if turnover did not exceed threshold but when desired by the appellant's board by passing an appropriate resolution for the same.

14. In our mindful consideration, in order to claim deductibility of audit fees as expenditure u/s 37(1) of the Act ***'the purpose of'*** getting books audited need not be shown & explained or established & proved. *Per contra* what is required for its deductibility is to show that audited books were maintained for the purpose of appellant's business or operations for the relevant assessment year in which such expenditure is paid & claimed as deductible. The appellant by claiming audit expenses u/s 37(1) of the Act in our considered view deemed to have always shown that audited books were maintained for its business operations income from which liable to be assessed for the year under consideration. In such a situation, the burden was on the Revenue to prove either that, (i) a transaction of audit fees is sham or bogus, or (ii) audited books were not meant for the assessee's business under assessment.

15. The Revenue however failed to deprecate the claim for deductible in aforestated terms, faced with situation the tax authorities cannot be allowed to challenge the intent or purpose of getting books audited as *'additional invented test'* for vouching deductibility u/s 37(1) of the Act. In our considered view vouching of intent/purpose of audit by the Revenue *de-facto* not only *extra-jurisdictional* but also impermissible in law. In view thereof, we see no merit in the action of tax authorities in disallowing the impugned audit fees by questioning the intent/purpose of audit. Moreover the expenditure so claimed neither proved as bogus/sham nor deprecated with cogent evidence to have incurred/spent otherwise than wholly & exclusive for the purpose of appellant's business. The disallowance therefore cannot be continued, therefore reversed in toto. The ground is thus allowed.

Ground No 5: Miscellaneous Expenditure

16. For the year under consideration the appellant claimed to have incurred legal fees ₹24,900/- & ROC charges ₹3,546/- & grouped them as 'Misc. Expense' for the purpose of deduction u/s 37(1) of the Act being wholly & exclusively for the purpose of business. The tax authorities however denied the claim for deduction for the want of documentary evidence.

17. We note that neither in the assessment proceedings nor in appeal before Ld. CIT(A), the appellant could adduce; (i) a copy of ROC fees/challan showcasing the actual payment and (ii) copy of legal fees invoice/s (if any). The failure on the part of appellant to place on record the documentary evidence of expenditure claimed have been incurred by it, the deduction was denied by the tax authorities and we *prima-facie* see no error in their action.

18. Moreover, even in the present proceedings the appellant found indifferent as well. The appellant beside reiterating its bald claim that such expense are basic, common and necessary to maintain its corporate form/structure, could hardly place any corroborative & lucid document to showcase such expenditure were indeed incurred so as to pass the test envisaged by section 37(1) of the Act.

19. In our considered view it is not the quantum, but the eligibility of expense alone determines its deductibility u/s 37(1) of the Act. Such eligibility is proved by adducing documentary evidence and showing the satisfaction of five-fold test laid in section 37(1) of the Act. The burden of proof for placing evidence and in establishing that, the claimed expenditure fulfils all the five conditions of section 37(1) of the Act is on claimant assessee.

20. A reference can be made to the decision rendered in the case of *'Liberty Footware Vs CIT'* [2014, 57 Taxmann.com 81 (P&H)], *'Hindusthan Tabaco Co. Vs CIT'* [2012, 211 Taxman 111 (Cal)], *'Peerless General Finance & Investment Co. Ltd. Vs CIT'* [2012, 210 Taxman 171 (Cal)], wherein their lordship have categorically held the initial burden of proof lies on claimant assessee to prove that such expenses are relatable to business by laying cogent evidence on record and then to prove its commercial expediency.

21. In the present case, the appellant since failed to discharge the burden of proof by adducing third-party evidence to prove that such expenditure is revenue & not capital, was incurred during the previous year wholly & exclusively for the purpose of business, not personal expenditure and lastly not falling & not claimed in any of section 30 to 36 of the Act.

22. In view thereof we do not deem it fit to interfere with the action of the tax authorities below in disallowing the claim for deduction in the absolute absence of third-party evidence. The ground thus dismissed on very terms.

Ground No 6: Interest u/s 234B of the Act

23. The section 208 of the Act fastens a liability on every person/assessee whose estimated tax liability exceeds prescribed ceiling to pay such tax in advance, in the form of 'advance tax'. A default in payment of such advance tax either by non-payment or short payment attracts penal interest u/s 243B and 234C of the Act. Insofar as the interest u/s 234B of the Act is concerned it is levied @1% per month (or part thereof) on tax computed on assessed income when person/assessee fails to pay advance tax or advance tax paid is less than 90% of assessed tax for a period

of default commencing from 1st day of assessment year and ending on the date of payment or assessment as the case may be.

24. For the assessment year under consideration, the prescribed limit to attract liability to pay 'advance tax' u/s 208 of the Act was ₹5,000/-. *Per contra* the tax liability computed on the income assessed u/s 143(3) of the Act in the present case was only ₹3558/-, therefore the provisions of section 208 requiring assessee to pay such assessed tax in advance did not attract. If there was no default u/s 208 of the Act, then the penal provisions of section 234B & 234C of the Act has no application. The arbitrary application of interest u/s 234B of the Act by the Ld. AO being, *contra legem* hence deserves to be undone. The arbitrary interest so levied u/s 234B in result stands deleted. The Ground No 6 thus stands allowed.

Ground No 3: Interest paid to holding company.

25. Pursuant to Ld. CIT's revisionary directions the Ld. AO after reconsidering the factual matrix afresh came to disallow a sum of ₹3,56,51,678/- u/s 36(1)(iii) r.w.s. 37(1) of the Act representing interest paid to Holding company on deposits/ICDs received from it, which in turn used to advance to subsidiary company without the payment of interest (interest waived off). While doing so the Ld. AO is of the view that since the ICDs taken from holding company were meant for *'real-estate business'* however no such activities were undertaken in the year under consideration therefore the advances were never deployed for business. The interest paid thereon to holding company represents as incurred otherwise than wholly & exclusively for the purpose of business, hence ineligible for deduction u/s 36(1)(iii) r.w.s. 37(1) of the Act. Same been countenanced by Ld. CIT(A) in appeal.

26. In all proceedings including the present one the appellant claimed that, except unilateral action to waive off the interest receivable on ICDs advanced to its subsidiary company there has been no change in character & nature of the transaction. The Revenue since accepted the very impugned transaction in the preceding year, therefore should not be permitted to question the same in subsequent year/s. To support the claim for reversal of impugned disallowance on this score alone, the appellant relied on the decision rendered in *'CIT Vs Sridev Enterprises'* [1991, 59 Taxman 439 (Kar)]. Further in ousting the revenue's contention that such lending/advancing to subsidiary was outside the business object or scope of registered object and therefore it had no nexus with the appellants company's business, the appellant relied the decision in the case of *'S A Builder Ltd. Vs CIT'* [2007, 288 ITR 1 (SC)].

27. *Au contraire*, the Ld. DR Senthil Kumar tried to pull appellant's contention to pieces by underlying that; (i) non-adherence to matching accounting principle and (ii) overthrowing commercial prudence, the appellant failed to fulfil the litmus test of section 37(1) in paying interest on funds advanced by holding company by investing into subsidiary company on which the appellant did not by choice charged any interest by waiver. The same transaction *per contra* in preceding year had been carried out & accounted for after adhering to matching accounting principle & respecting the commercial business prudence. The unilateral change whereby the interest on ICDs advanced to subsidiary ZDPL after its accrual was waived off *per-se* changed every nature & character of transaction previously undertaken, hence the reliance placed on former decision (supra) by the appellant company is clearly misplaced.

28. The Ld. DR continue to submit that, the appellant changed its object twice since incorporation and in no year it had actually undertaken any business activities. The funds/ICDs received from holding company in AY 2008-09 were never actually deployed for the purpose of business activities because after such ICDs were received the assessee changed its main object twice and there is much less evidence to suggest otherwise. In concluding the arguments, the Ld. DR ingeminate the differential treatment applied to ICDs taken & given in relation to interest income & interest expenditure *qua* assessment years and contented that as such assessee explained no business or commercial reason in relinquishing interest accrued hence such advancing transaction for the year under consideration ceased to be wholly & exclusively for the purpose of business, hence disentitled for deduction u/s 37(1) of the Act.

29. We note that, in preceding assessment year i.e. AY 2008-09 the appellant company obtained advances/loans of ₹49,81,00,000/- from its holding company 'Zuari Industries Ltd' ['ZIL'] in the form of inter-corporate deposits ['ICDs'] which in turn used to advance its subsidiary company 'Zuari Developers Pvt Ltd.' ['ZDPL'] as ICDs/investment for sum of ₹42,16,40,630/- and balance ₹8,26,75,564/- used to invest in shares thereof. In said AY the appellant earned interest from its subsidiary ZDPL on such ICD's advanced and correspondingly paid interest to its holding company ZIL which ultimately financed such ICD's/advances. The said arrangement, recognition of interest as income & claim of interest expenses thereagainst as declared in the return of income by the appellant was accepted by the Revenue for the said preceding assessment year 2008-09.

30. For present AY 2009-10 former arrangement continued for fraction period for which the appellant paid/credited like interest to ZIL and claimed it as expenditure u/s 36(1)(iii) of the Act. The appellant however claimed to waive off the interest on the ICD's invested/advanced to its subsidiary ZDPL. The revenue treated such advancing transaction and consequential interest expenditure otherwise than wholly & exclusively for the purpose of business. In the event of failure to satisfy one of the five-hold condition envisaged in 37(1) of the Act, the interest expenditure claimed to have incurred on funds/ICDs borrowed from the ZIL u/s 36(1)(iii) of the Act was turned down & disallowed.

31. From the arguments advanced we also note that, the primary object of the appellant with which it was first incorporated was to setup and develop special

economic zone ['SEZ'], Information Technology ['IT] and Information Technology Enabled Services ['ITES']. Subsequently w.e.f. 27th February 2008 the appellant amended its object to engage into 'real estate' business instead and thus changed in name to 'Zuari Infrastructure and Developers Ltd' ['ZIADL']. Further in January 2011 the appellant again changed its name to 'Zuari Management Services Ltd' to engage in management related service. Thus, it is apparent from the records that, the appellant was never an investment company but an intermediary channel to advance or fund to level three subsidiary company ZDPL ['L3'] in the form of ICDs beside equity investment therein. There was no denial that by virtue of amended clause 32 & 33 of MOA, that appellant was entitled to borrow/raise money from any person including holding company & equally entitled to lend or advance money to any person

including subsidiary respectively, but these were incidental objects and never a predominant object. Although it is accepted that the business may not in all years all the time earn profits/income but so long as the interest/cost bearing borrowed money parked/invested in interest/income yielding avenues the commercial prudence is proved without further burden of proof. Being so, the transaction of advancing by appellant in preceding AY were accepted and but not in the year under consideration for the basic reason that it diched the business/commercial prudence/expediency.

32. From the perusal of audit report placed on record (Pg 88 to 91 of PB) however we note that the amount advanced to subsidiary company were meant for acquiring residential plots/area and undertaking housing/commercial projects thereon. The audited

accounts further revealed that, in the year under consideration the investment in subsidiary along-with such advances eventually divested by the appellant company in favour of its holding company which ultimately financed the entire sum of ICDs' and investment, which *prima-facie* appears to be circular transaction of financing/investment. We say so because appellant had conducted much less business beside being intermediary channel to advance the ICDs. For the reasons in these transactions not only the *terms of ICDs advanced* from ZIL and advanced to ZDPL were kept intact but *charge of interest* as well, in the records. Therefore, there was no commercial reason or much less business reason for the appellant to unilaterally to relinquish the right to receive interest on ICDs advanced to ZDPL against which it had an obligation to pay interest to ZIL, thus the very nexus of application for business lost.

33. It not oblivious that the earning of interest on ICDs advanced to its subsidiary ZDPL in the immediately preceding AY the appellant has admittedly established the nexus between the ICDs advanced by its Holding Company were in turn used to advance ICDs to its subsidiary company ZDPL and thus the business or commercial prudence/expediency. The cost of interest paid to holding company ZIL had direct and proportionate nexus with the amount of interest earned on ICDs extended to its subsidiary ZIL in that year, per contra in the present year. If revenue from ICDs was exigible to taxation, then corresponding expense incurred on such ICDs borrowed was deductible. And there is no reason or at least not shown to us as to why the former rationale in fiscal law cannot be applied inversely to the facts of the case as the taxing statue is based on doctrine of real income theory.

34. Admittedly, in terms of initial agreement pursuant to which ICDs were continued with subsidiary ZDPL the interest thereon from 1st April and upto the date of disinvestment by sale etc., was indeed accrued to the appellant. The said accrued interest/income was neither recognised in books nor accounted, which was gross non-adherence to mandatory accounting standards and mercantile system of account (accrual system of accounting). We so say because waiver of interest/income is *post-facto* to its accrual, as it merely chooses not to collect or recover after being accrued as real income. If such waiver and non-recognition in books is accepted by doctrine of real income theory, then it should correspondingly be applied to interest expenditure claimed u/s 37(1) of the Act. Owning to change in character of interest-bearing advance to interest free advance, the object of application impacted.

35. The nexus between fund borrowed and advanced continues so long as the fund & its accretion are treated on same line at both the ends. The moment head or tail of funds or its accretion are tweaked, the rights & liabilities arising therefrom/thereby are shattered, then is good enough to treat as nexus thereof is broken. The waiver of interest income after being validly accrued had an effect of braking the very nexus and in effect fictitiously or more appropriate would be hypothetically burden the profit & loss account in absence of corresponding interest income because the nature & character of transaction, fund, *vis-à-vis* hands never changed. For the aforestated reasons, and in the peculiar & distinguishable facts & circumstance of the present case, the reliance placed by the appellant on *'CIT Vs Sridev Enterprises' and 'S A Builder Ltd. Vs CIT'* (supra) could hardly be applied to reverse the disallowance.

36. What section 36(1) (iii) r.w.s. 37(1) of the Act requires is that the expenditure must be laid out or expended wholly and exclusively for the purpose business, meaning thereby such expenditure should be incurred for making or earning income from business. It is the purpose of the expenditure that, is relevant in determining the applicability of section 36(1)(iii) and 37(1) of the Act and that purpose must be making or earning of income, however such purpose may not be promising at all the time and may not fulfilling one. Conversely if the purpose of making or incurred expenditure is not (i) for the business and (ii) for the earning income or profit, then such expenditure cannot be held as incurred for the purpose of business and wholly & exclusively. This our view finds fortified in the decision of Hon'ble Supreme Court in *'CIT Vs Rajendra Prasad Moody'* [1978, 115 ITR 519 (SC)].

37. In effect the appellant in the present case since advanced the interest free ICDs out of interest bearing ICDs therefore the disallowance made u/s 36(1)(iii) r.w.s. 37(1) of the Act finds strength in view of the ration laid down in 'CIT Vs Reliance Utilities & Power Ltd' [2009, 178 Taxman 135 (Bom)] wherein the Hon'ble Court dealt with an issue interest free loans were advanced by assessee to its subsidiary/sister concern, and the categorically held, that the disallowance u/s 36(1)(iii) r.w.s. 37(1) of the Act towards interest paid on borrowed fund is impermissible if equivalent 'interest free fund' are available with the assessee for advancing to its subsidiary/sister concern. And when assessee fails to demonstrate the availability of interest free funds for advancing it to subsidiary/sister concern, then the action tax authorities in disallowing the interest paid on borrowed monies cannot be called in question.

38. In view of the aforestated discussion & judicial precedents (supra), we see no error in the actions of tax authorities below in holding that the interest bearing funds/ICDs borrowed were applied for the purpose otherwise than wholly & exclusively for business, therefore interest expenditure on such on ICDs failed to represent as incurred wholly and exclusively for the purpose of appellant's business. Further in the absence any material or submission explaining the commercial expediency in waving of accrued interest income, we uphold the disallowance and dismiss the ground as meritless.

39. **In result, the appeal of the assessee is partly allowed in aforestated terms.**

In terms of rule 34 of ITAT Rules, 1963 the order pronounced in the open court on date mentioned hereinbefore.

-S/d-	**-S/d-**
PAVAN KUMAR GADALE	**G. D. PADMAHSHALI**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Panaji/Dt: 06th February, 2026.

Copy of the Order forwarded to :

1. The Appellant.	2. The Respondent.	3. The CIT(A)/NFAC Concerned
4. PCIT Concerned	5. DR, ITAT, Panaji Bench, Goa	6. Guard File

By Order,
Sr. Private Secretary / AR ITAT, Panaji.