

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &
SHRI AVDHESH KUMAR MISHRA, AM

आयकर अपील सं. / ITA No: 697/RPR/2025
(निर्धारण वर्ष Assessment Year: 2017-18)

Rituraj Steel Private Limited, M/s Rituraj Steel Private Limited, Hotel East Park Agrasen Chowk, Bilaspur, Chhattisgarh, 495001	Vs	Assistant Commissioner of Income Tax, Circle 2(1), Bilaspur, Shri Ram Plaza Vapar Vihar, Bilaspur, Chhattisgarh, 495001
PAN: AACCR7589J		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	None (Petition filed)
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	05/02/2026
घोषणा की तारीख / Date of Pronouncement	:	09/02/2026

आदेश / ORDER

Per Avdesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2017-18 filed by the assessee is directed against the order dated 29.10.2025 of the Additional Commissioner of Income Tax (Appeals), Mysore ['Addl. CIT(A)'] passed under section 250 of the Income Tax Act, 1961 ('Act').

2. The sole effective issue raised by the appellant assessee is in respect of the disallowance of Rs.1,87,000/- made under section 36(1)(iii) of the Act, which reads as *"the disallowance being unjustified, unwarranted and uncalled for when*

the paid-up capital exceeds the advances given to the sister concerned and no borrowing have been taken from bank”.

3. The relevant facts giving rise to this appeal are that the assessee filed its Income Tax Return ('ITR') on 29.10.2017 declaring income of Rs.87,42,930/-. The case was picked up for scrutiny and the consequential assessment was completed at income of Rs.1,03,49,897/- wherein the Ld. Assessing Officer ('AO') made two disallowances: (i) Service Tax Penalty of Rs.14,19,967/- and; (ii) Interest of Rs.1,87,000/- under section 36(1)(iii) of the Act. We have been tasked to decide the issue of disallowance of interest under section 36(1)(iii) of the Act being sole issue in dispute.

4. Before us, the assessee was not represented by anyone. Therefore, we heard Dr. Priyanka Patel, Ld. Sr. DR as there was no compliance on the part of the assessee. The Ld. Sr. DR argued the case vehemently and prayed for dismissal of the appeal.

5. We have heard the Ld. Sr. DR at length and have perused the material available on the record. As per the assessee, the interest free advances have been made out of the capital and interest free funds; hence, no disallowance on this score is called for. Whereas the stand of Revenue is that the assessee has advanced the said interest free loans to related parties out of the interest bearing borrowed fund. Hence, the Ld. AO made the disallowance of interest under section 36(1)(iii) of the Act.

6. The section 36(1)(iii) of the Act states that "*the amount of interest paid in respect of capital borrowed for the purpose of the business profession*" has to be allowed as deduction in computing the business income. The expression "for the purpose of business" mentioned in section 36(1)(iii) of the Act is wider in scope than the expression "for the purpose of earning income, profits or gains," and this has been the consistent view of the Hon'ble Courts. In the present case, the appellant assessee has admitted in the ground of appeal that it has not borrowed the fund from the bank and has advanced the same of its sister/related concerns as interest-free loans & advances. The test, in our opinion, in such a case is really whether this was done as a measure of commercial expediency or otherwise. In the present case, the Ld. Addl. CIT(A) has not examined the fact that whether the sums advanced to the related parties were in the commercial expediency and or the same had been advanced out of non-interest bearing fund available to the assessee. We have taken note of the fact that none of the authorities below us have examined this aspect of the matter. The issue of commercial expediency of advances to related parties and or the sum advanced to related parties are sourced from non-interest bearing fund available to the assessee needs categorical finding by the first appellate authority/Addl. CIT(A). Before parting out, we would like to mention that the issue of surplus fund available with the assessee given to its related parties have been decided by the Hon'ble Supreme Court in number of cases; such as, East India Pharmaceutical Works Ltd. 224 ITR 627 (SC), Munjal Sales Corporation 298 ITR 298 (SC), South Indian Bank Ltd. 438 ITR 1 (SC). The Hon'ble Supreme Court in the case of South Indian Bank Ltd. (supra)

has approved the mixed fund theory in as much as it has been also held that no disallowance of the interest could be made when non-interest bearing fund should be more than the investment made in tax free securities.

7. We take note of the fact that the Ld. Addl. CIT(A) has not given any categorical finding on the issue of commercial expediency of advances to related parties and or the sum advanced to related parties are sourced from non-interest bearing fund available to the assessee. Considering the facts in entirety and without offering any categorical finding on the merit of the case, we deem it fit to set aside the finding of impugned order on the issue in dispute before us and remit the matter back to the file of the Ld. Addl. CIT(A) for deciding this issue afresh/denovo, in view of the observations in foregoing paras, after providing adequate opportunity of being heard to the appellant assessee. Ordered accordingly. The appellant assessee, no doubt, shall cooperate in remitted appellate proceedings.

8. In the result, the appeal of assessee is **allowed for statistical purposes.**

Order pronounced in the open court on 09/02/2026.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(AVDHESH KUMAR MISHRA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 09/02/2026
HKS, PS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant

2. प्रत्यर्थी/ The Respondent
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,
//True copy//

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur