

**IN THE INCOME TAX APPELLATE TRIBUNAL
"I" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 1681/Mum/2022
(Assessment Year: 2017-18)**

Jagdeep Singh Dhanoa 8202, 23 Marina, PO Pox 73392, Dubai Marina Dubai AR, Foreign, United Arab Emirates- 73392	Vs.	Income Tax Officer, IT (2)(1), Mumbai 1724, 17 th Floor, Air India Building, Nariman Point, Mumbai - 400021
PAN/GIR No. AADPD4843R		
(Applicant)		(Respondent)

Assessee by	None
Revenue by	Shri Krishna Kumar (SR. DR.)

Date of Hearing	03.02.2026
Date of Pronouncement	17.02.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 26.04.2022 passed u/s 143(3) r.w.s. 144C of the Income Tax Act, 1961 ('the Act'), by the Office of the Income Tax Officer Ward 2(1) (1), Mumbai for the assessment year 2017-18. The following grounds are reproduced below:

“1) Adjustment of INR 2,63,12,929 to the total income of the Appellant in respect of notional interest on loan granted to Associated Enterprises ('AE's') in India:

1.1 The Ld. Dispute Resolution Panel-1, Mumbai (DRP) erred in upholding the adjustment of INR 2,63,12,929 made by the Dy. Commissioner of Income Tax (TP) -2(3)(1), Mumbai (Ld. TPO)/ Income Tax Officer International Tax Ward 2(1)(1). Mumbai (Ld. AO in respect of notional interest on interest free loans granted to the AEs of the Appellant.

1.2 The Ld. DRP erred in not applying the provisions of Article 11 of the India-UAE Double Taxation Avoidance Agreement (DTAA) which provides for taxation of interest income on receipt basis.

1.3 The Ld. DRP has erred in not holding that since no interest income arose in the hands of the Appellant, the provisions of Chapter X of the Act shall not apply.

1.4 The Ld. DRP and Ld. TPO/Ld. AO has grossly erred in not following the doctrine of binding precedents, pursuant to which no adjustment to income would require to be made.

2) Considering the transaction with another AE for benchmarking the TP adjustment using Internal CUP method:

2.1 The Ld. DRP erred in upholding the aforesaid TP adjustment made by the Ld. TPO @12.5%, by considering the transaction with another AE of the Appellant (being a controlled transaction), while benchmarking the adjustment using the Internal Comparable Uncontrolled Price Method.

3) Not considering the alternatives / scenarios provided by the Appellant with respect to the rate of interest:

3.1 Without prejudice to the above, the Hon'ble DRP and Ld. TPO/Ld. AO has grossly erred in not considering / rejecting the alternatives / scenarios provided by the

Appellant with respect to the rate of interest that may be considered by the id. TPO during the course of transfer pricing proceedings.

4) Error in calculation of interest under section 234A and 234B of the Act:

4.1 The Ld. AO had erred in calculating the interest u/s 234A of the Act, for delay in furnishing of return, considering the due date for the return of income for the Appellant as 31 July 2017 whereas the due date applicable to the Appellant was 30 November 2017 (since the Appellant was subject to the transfer pricing provisions under the Act and the Appellant had furnished the return of income on 27 November 2017).

4.2 The Id. AO had also erred in levying interest u/s 234B of the Act, having regard to proviso to s. 209(1)(d) of the Act which is not applicable to the Appellant's case."

2. None appeared on behalf of the assessee when the case was called repeatedly. From the records, we noticed that on earlier occasions also the matter was adjourned on one ground or the other, and specific directions were issued by the Coordinate Bench that no further adjournment shall be granted in this case. Despite the same, neither the assessee nor his Authorized Representative appeared before us.

3. On the other hand, the Ld. DR present in the Court is ready with arguments. In these circumstances, we have decided to proceed to dispose of the appeal *ex parte*, after hearing the Ld. DR and perusing the material available on record.

4. From the records, we noticed that the assessee had filed an application seeking permission to raise additional grounds of appeal, which are as under:

Re: Jagdeep Singh Dhanoa (“Appellant”)

Assessment Year (“AY”) 2017-18

PAN: AADPD4843R

Subject: Application under Rule 11 of the Income-tax (Appellate Tribunal) Rules, 1963 for raising an additional ground in ITA No. 1681/Mum/2022

In connection with the captioned matter, the Appellant wishes to file additional grounds in the captioned appeal against the impugned order, one of which (i.e., Ground 6) was also mentioned/pressed during the hearing before the Honorable ITAT dated 23 August 2023.

We request the Hon’ble ITAT to kindly admit the additional grounds of appeal and decide the same on merits. In respect of the above proposition, we rely on the following decisions:

- *National Thermal Power Co. Ltd. vs. CIT, [1998] 229 ITR 383 (Supreme Court).*
- *Jute Corporation of India vs. CIT, [1991] 187 ITR 688 (Supreme Court).*
- *Ahmedabad Electricity Co. Ltd. vs. CIT, [1993] 199 ITR 351 (Bombay High Court).*

Additional Grounds of appeal

S. No.	Ground of Appeal	Tax effect relating to each ground of appeal
5	That, without prejudice to the other grounds of appeal, on the facts and circumstances of the case and in law, the Ld. AO has grossly erred in applying the slab rates applicable to individuals instead of the beneficial rate of tax of 12.5% under Article 12 of the India-UAE DTAA.	Rs. 60,61,184
6	That on facts and circumstances of the case, the assessment proceedings are barred by limitation in terms of the provisions of section 153 of the Act and the final assessment order dated 26.04.2022 passed by the AO deserves to be quashed (in view of the decision of Honourable Bombay High Court in Shelf Drilling Ron Tappmeyer Limited (WP No. 2340 of 2021).	Rs. 93,50,299

5. After carefully considering the application filed by the assessee and after hearing the Ld. DR, we are of the considered view that the additional grounds sought to be raised involve a legal issue which goes to the root of the matter and no prejudice would be caused to the Revenue by admitting such additional grounds as has been held by the judgments of the **Hon'ble Supreme Court in National Thermal Power Co. Ltd. vs. CIT [1998] 229 ITR 383 (SC)** and **Jute Corporation of India Ltd. vs. CIT [1991] 187 ITR 688 (SC)**, as well as by the judgment of the **Hon'ble Bombay High Court in Ahmedabad Electricity Co. Ltd. vs. CIT [1993] 199 ITR 351 (Bom.)**.

7. Accordingly, we admit the additional grounds raised by the assessee. Since adjudication of these grounds requires factual verification, we deem it appropriate to restore the matter to the file of the AO. The Assessing Officer is directed to adjudicate the

additional grounds raised by the assessee afresh, in accordance with law, after providing sufficient and adequate opportunity of being heard to both the parties.

8. Before parting, we make it clear that our decision to restore the matter back to the file of AO shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by AO independently in accordance with law.

9. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 17.02.2026

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 17/2/2026
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आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

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

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai