

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member,

Sh. Sudhir Kumar, Judicial Member

ITA No. 2216/Del/2022 : Asstt. Year: 2019-20

Universal Tractor Holding LLC, 1013, Center Road, City of Wilmington, County of New Castle, Delaware, USA-19805 (APPELLANT)	Vs	DCIT, International Taxation, Circle-3(1)(1), New Delhi-110002 (RESPONDENT)
PAN No. AACCU2669J		

Assessee by : Sh. Durgesh Shankar, Adv.

Revenue by : Ms. Banita Devi Neorem, CIT-DR

Date of Hearing: 06.06.2024

Date of Pronouncement: 28.08.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order dated 18.07.2022 passed by the AO u/s 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961. Delay condoned.

2. Following grounds have been raised by the assessee:

"1. The Ld. DRP as well as Ld. ACIT International Tax Circle 3(1)(1) have committed a grave error in wrongly addressing the Appellants' address as "1013 CENTRE ROAD CITY OF WILMINGTON, COUNTY OF NEW CASTLE BELAWARE, BELAWARE 999999, FOREIGN, United States" instead of correct address being "103 Centre Road, City of Wilmington, County of New Castle, Delaware, USA" and as such, the said assessment order issued under Ss 143(3) r.w.s 144C(13) as ab initio illegal and void ab initio.

2. The Ld. Dispute Resolution Panel has erred in fact and in law in holding that interest on the damages awarded through the Decree of an Indian Court is subject to taxation in India, within the ambit of INDIA-USA Double Taxation Avoidance Agreement and thus directing thee Ld. Assessing Officer to

charge tax on the interest awarded by Hon'ble Delhi High Court on decree damages @ 15% as per India-USA DTAA.

3. The Ld. Dispute Resolution Panel has erred in fact and in law in holding that "interest does not partake the character of the principal amount i.e. Arbitration amount as the interest has its own distinct character..." placing reliance on an alleged decision of Hon'ble Delhi ITAT in the case of DCIT (OSD), Range-1, Dehradun V/s M/s Mc Dermott International Inc, allegedly reported in (2019)-TIOL-366-(ITAT-Del). In fact the above citation relates to Mackintosh Burns Ltd Vs Deputy Commissioner of Income Tax, Circle -1.1(2), Kolkata, of Kolkata bench of ITAT no. ITA No 2019-TIOL- 366-ITAT-KOL.

4. The Id. Dispute Resolution Panel has erred in fact and in law in disregarding the orders, of Hon'ble High Court of Delhi in assessee's case (Delhi High Court Execution Petition no. 372/2010 dated July 13, 2012 in Universal Tractor Holding Vrs Escorts Ltd.) wherein the Hon'ble Court has directed in para 42 that with the objection of Escorts having been rejected, the Award is, in terms of Section 49 of the (Arbitration) Act, deemed to be a decree of the Court by the present judgement. This is also wlevant for the purposes of calculation of the exchange rate of the claim in USD into Nit as prayed for by DH(UTH). Therefore, in accordance with the affidavit filed on 56 August 2011 by the Petitioner, the JD (Escorts) is directed to deposit in this Court within eight weeks the following sums after converting the USD to INR by applying the rate of exchange prevalent as of today:

- (i) USD 125,000+ interest @ 11.25% from 30th May 2007 till August 2011*
- (ii) USD 350,000+ interest @ 11.25% from 10th August 2007 till 25th August 2011*
- (iii) USD 51,030.37 + USD 25,388.15+USD 19,347.47"*

5. The Ld. Dispute Resolution Panel has erred in fact and in law in dissecting the Decree amount awarded by Hon'ble Delhi High Court in Delhi High Court Execution Petition no. 372/2010 dated July 13, 2012 in Universal Tractor Holding Vrs Escorts Ltd. into amounts of Damages + Reimbursement of Expenses as Capital Receipt and the amount of Interest as separate and to be taxed as Revenue Receipt.

6. The Ld. Dispute Resolution Panel has erred in fact and in law in not following the time honoured preposition in law viz. the amount awarded through a Decree of a Court is outside the purview of the Income Tax Act, 1961, and does not attract taxation in India.

7. The Ld. Dispute Resolution Panel has erred in fact and in law in invoking the India - USA DTAA, when the amounts of

damages awarded by the decree of the court are outside the purview of Income Tax Act 1961."

3. The assessee is a non-resident company filed return declaring NIL income and claiming refund of the TDS of Rs.1.76 Cr. which was deducted on account of the decree awarded by Hon'ble High Court of Delhi following an arbitration award. The assessee sought refund of the entire tax deducted.

4. Brief facts pertaining to the issue are that the assessee M/s Universal Tractor Holding LLC (UTH) is a foreign company with its headquarters and registered office in the city of Wilmington, County of New Castle, Delaware, United States of America. UTH entered into an agreement with another US Company, viz. M/s Escorts Agri Machinery Inc, (EAMI) for the sale of its membership interest of 49% in another US company. viz. M/s Beaver Creeks Holding LLC, for US\$ 1.2 million, in 2006. EAMI was a wholly Owned subsidiary of M/s Escorts Ltd, a limited company having its head quarters in New Delhi. EAMI already held 51% interest in M/s. Beavers Creek Holding LLC. The payments were to be made in 4 installments. The purchasers paid the first two installments but subsequently defaulted on third & fourth installments, in as much as it only paid part of the third installment and paid nothing thereafter. Thus, a commercial dispute arose between UTH and EAMI. The dispute was referred to an Arbitrator, who gave a unanimous verdict in 2010, in favour of UTH, awarding it damages to the tune of US\$ 4,75,000/- plus other expenses viz. pre-judgement & post judgement interest 11.25%, Counsel fee, filing fee, Arbitrators' fee etc.

5. Meanwhile, EAMI merged with its parent Indian company, viz. Escorts Ltd. with all its assets and liabilities. Accordingly, UTH applied to Hon'ble Delhi High Court for a suit for execution of the Arbitral Award against M/s Escorts Ltd. the Judgement Debtor. Thereafter, order u/s 197 was issued by Income Tax Officer (International Taxation) ward 3(1)(1) dated 31.7.2018, directing Ms. Escorts Ltd. to deposit a sum of Rs. 6,35,94,212/- in the High Courts' treasury, after a deduction of TDS (@40% on Rs.3,23,00,000 + @ 15% on Rs.2,47,82,124). Accordingly, the assessee received Rs. 5,65,66,884/- after such deduction of tax.

6. The issue before us is whether the contention of the assessee that the income thus received is not chargeable to tax as it has not accrued or arisen in India especially the assessee has not business connection in India.

7. The amounts received by the assessee are as under:

- USD 125000 + Interest @ 11.25% from 30.05.2007 to 25.08.2011
- USD 350,000 + Interest @ 11.25% from 10.08.2007 to 25.08.2011
- USD 51,030 as Legal fees, USD 25,388 as expenses, USD 19,347 as Arbitration cost

8. The Assessing Officer held that the assessee has not provided copies of returns filed in USA and also failed to furnish TRC. The Assessing Officer held that the assessee is a wholly owned subsidiary of a Romanian company and accordingly its shareholders too are not resident of USA. The argument of the Assessing Officer was that the assessee is a LLC and in US the LLC is not a taxable entity but the taxes are to be paid by the

partners. Therefore, the assessee UTH, is a fiscally transparent entity in its country of resident as it allows all the income to pass through it. The Assessing Officer contended that the assessee UTH, does not enjoy the benefits of the income but passes it on for the enjoyment of its partners. The main contention of the Assessing Officer was that since the assessee lacks beneficial ownership of the income earned by it and inturn not eligible to be considered as resident for the purpose of India-USA DTAA. Applying the source rules as per Section 5(2) and Section 9 of the Income Tax Act, 1961 as the assessee is not a "resident" for the tax purpose of USA and since no TRC has been furnished, the AO taxed the amount @40%.

9. Aggrieved, the assessee sought directions from the Id. DRP.

10. Before the Id. DRP, the assessee submitted TRC and claimed that the receipts are not taxable in India as this pertains to damages awarded by Arbitrational Tribunal. The Id. DRP held that the award consists of,

- payment of damages
- Interest on such damages
- Reimbursement of expenses

11. The Id. DRP held that damages being capital receipt in nature and reimbursement are out of purview of taxation and the interest on damages is treated as "income" which is arising out of the decree of the Court. The Id. DRP held that such interest may also be taxed in the contracting state in which it

arises and according to the loss of that state but if the beneficial owner of the interest is a resident of other contracting state, the tax so charges shall not exceed 10% of the gross amounts of the interest, if such interest is paid on a loan granted by a bank carrying a bonafide banking business and 15% of the gross amount of the interest in all other cases.

12. Relying on Section 9(1)(v)(b) of the Income Tax Act, 1961, the Id. DRP directed that the amount of Rs.2.47 cr. received by the assessee on interest on damages awarded by the Court be taxed @15%. The Id. DRP relied on the decision of Co-ordinate Bench of ITAT Delhi in the case of DCIT Vs. Mc Dermott International Inc.

13. Aggrieved, the assessee filed appeal before the Tribunal.

14. The Id. AR argued that the issue of TRC is no more *res integra* as Id. DRP has accepted the TRC submitted by the assessee. The Id. AR relied on the decision of Co-ordinate Bench of ITAT Mumbai in the case of ACIT-16(1) Vs. Shri Jackie Shroff, ITA No. 2792/Mum/2016 dated 23.05.2018, in support of his submissions that amounts awarded by the decree of a competent court is outside the ambit of Income liable to be taxed in India. Attention was invited to para 7 of the said order wherein it was observed that being the case, the amount received towards compensation/damage cannot fit in to the definition of income as per section 2(24) r.w.s. 4 of the Act. The Id. AR further relied on the judgment of Hon'ble Jurisdictional High Court in the case of Amar Dye Chem Ltd. [(1994) 74 Taxman 254)] wherein the Hon'ble High Court held

that the amount received towards compensation/damage for settlement of dispute is capital receipt, hence not taxable. Same view was expressed by the ITAT Mumbai Bench in the case of Vinay P. Karve (2015) 152 ITD 58.

15. The Id. DR relied on the order of the Id. DRP.

16. Heard the arguments of both the parties and perused the material available on record.

17. The Co-ordinate Bench of ITAT Mumbai in the case of ACIT-16(1) Vs. Shri Jackie Shroff, ITA No. 2792/Mum/2016 dated 23.05.2018 held that the compensation/damages received by Shri Jackie Shroff is a capital receipt. In that case, the damages were paid as a result of amicable settlement of dispute and settlement deed was executed between the parties. The assessee received monies as per settlement deed in lieu of withdrawal of the criminal complaint filed before the economic offences wing of Mumbai Police. The Co-ordinate of Tribunal after considering the judgment of Hon'ble Jurisdictional High Court in the case of Amar Dye Chem Ltd. [(1994) 74 Taxman 254] held that the compensation/damages received by the assessee was a capital receipt and hence not liable to tax. It was not the case of the assessee receiving interest, hence the facts are clearly distinguishable. In the instant case, the assessee received damages and also interest on the damages. The damages are treated as capital receipt, the interest is being treated as revenue receipt. In the case of Mahinder Singh Vs. ITO in ITA No. 4168/Del/2000 order dated 17.12.2012, the Co-

ordinate bench of ITAT held that the interest is a revenue receipt;

"1. Whether on the facts and in the circumstances of the case, a sum of Rs.2,77,692/- awarded to the assessee as interest was rightly held to be revenue receipt?"

2. If the answer to question No.1 is in affirmative whether on the facts and in the circumstances of the case, the aforesaid sum of Rs.2,77,692/- was rightly separated from the other amount under the head "Award and Tax in full".

13. Since the High Court answered the first question in favour of the assessee that it is not a revenue receipt. The second question was not answered by the High Court. When the matter came before the Supreme Court, the first question whether the interest amount was revenue receipt was taken up for adjudication and in the meantime, the learned counsel of the assessee conceded that the interest amount may be taxed as receipt. Therefore, the Hon'ble Supreme Court refrained from giving any considered opinion on the first question. Since the answer to the first question became affirmative naturally the Hon'ble Supreme Court had to deal with the second question whether that amount of interest can be separated and taxed as income from other sources. While deciding this question, the Hon'ble Supreme Court had made the observations at para 6 of the order which have been quoted by the learned Assessing Officer. Thus, it can be safely concluded that the observation of Hon'ble Supreme Court pressed into service by the Assessing Officer and reproduced at page 5 of the assessment order can be said that these observations are not relevant so far the issue to be decided is concerned. Under such circumstances, Hon'ble Court have held that the decision of Court is an authority for the facts of the case on which decision is given. Similarly, Andhra Pradesh High Court in the case of CIT Vs.

Late Begum Band Allaoddin reported in 204 ITR has observed that a decision of the Supreme Court takes its colour from the question involved in the case and while applying the decision to a latter case, the Court must carefully tried to ascertain two principles laid down by the decision of the Supreme Court. It is not proper to pick out words or sentences from the judgment divorced from the context. Therefore, I do not agree with the Assessing Officer that the decision of Hon'ble Supreme Court in the case of Govinda Chowdhary & Sons reported in 203 ITR 881 is relevant in the case of the appellant. In my above decision, I get support from the decision of ITAT, ITA Nos.4168/Del/2000 & 3443/Del./2001, Cuttuck Bench, Cuttuck in I.T.A. No.169/90 in the case of J.C. Budhreja Vs. Income-tax Officer. In that case, similar reference to Supreme Court decision (supra) was referred. The relevant portion of the judgment is reproduced below:-

"The Ld. DR drew our attention to that portion of the judgment of the Supreme Court where it was conceded on behalf of the assessee that he was willing to proceed on the footing that the pre-award interest was in the nature of revenue receipt. Relying on this observation of the Supreme Court, it was ascertained by the learned DR that the pre-award interest is taxable. We are unable to give effect to this argument. The Supreme Court has taken note of the concession made on behalf of the assessee in the course of arguments and has not recorded any definite conclusion or any considered opinion regarding the taxability of the interest. This will be clear from the fact that the Court itself stated that in view of the concession they expressed no considered opinion on the question regarding the assessability of the interest. Since the matter was decided only upon the concession, the Supreme Court cannot be understood as having laid down the law".

15. Now coming to the actual nature of the receipt after going through various judgments of various High Courts on the issue, it is found that it is almost a settled proposition that if the interest is received on the basis of contract or under statute, the same is revenue receipt and is taxable otherwise not. In

the instant case, the interest received by the appellant is neither contractual or statutory, therefore, I hold that the interest of Rs.1,96,72,751/- is not taxable in the case of the assessee. The addition made on this account is deleted."

5. On further appeal, the ITAT in an ex-parte order dated 11/3/2004 relied upon the decision of Hon'ble Apex Court in CIT Vs. Govinda Choudhary and Sons, 203 ITR 801 & 63 ITR 485(SC); and allowed the appeal of Revenue. This order was subsequently recalled in M.A. No.133/Del/06 on 19th May, 2006 as aforesaid.

6. In the AY 1998-99, the Id. CIT(A) following his decision for the AY 1997-98, allowed the claim of the assessee ,treating the amount of Rs.3,33,59,343/- on account of interest in terms of award in a dispute between the assessee and MSEB, as a capital receipt.

7. The Revenue is now in appeal before us against the aforesaid findings of the Id. CIT(A). The Id. DR while carrying us through the findings of the AO relied upon the decision of Hon'ble Apex Court in Govinda Chowdhary & Sons 203 ITR 881 (S.C.), followed subsequently in CIT Vs. B.N. Aggarwal and Co. 259 ITR 754 (S.C.).

8. On the other hand, the Id. AR on behalf of the assessee while referring to the decision of the Honble High Court in the case of Govinda Chowdhary & Sons (supra) and decision of the Hon'ble Apex Court in the said case, vehemently argued that since the relevant contracts did not envisage any payment of interest nor the interest was provided in any Statute, the interest awarded by the arbitrator solely in his discretion could not be treated as revenue receipt. Inter alia, the Id. AR referred to decision in CIT Vs. Ghanshyam, 315 ITR 1 (SC) rendered in the context of interest on compensation awarded on the land acquisition. Since the interest was awarded on

decretal amount, the Id. AR pleaded that it could not be brought to tax as revenue receipt.

9. We have heard both the parties and gone through the facts of the case as also the decisions relied upon by both sides. The issue before us is as to whether the interest awarded by Hon'ble Bombay High Court from date of decree till payment was made i.e. interest of Rs.1,96,72,751/- paid by Airport Authority of India on 30.7.1996 to the assessee, is income and is liable to be included in its assessment for the AY 1997-98. As is apparent from the aforesaid facts, the AO brought to tax interest amount of Rs.1,96,72,751/- in the AY 1997-98 & amount of Rs.3,33,59,343/- in the AY 1998-99 awarded by the arbitrator and endorsed by Bombay High Court as a revenue receipt, following the decisions of Hon'ble Supreme Court in the case of Govinda Choudhary & Sons reported in 203 ITR 881(SC); Rockwell Engineering Co. Ltd. 180 ITR 277 (Kerala), Abbasbhoy A. Dehgamwalla 195 ITR 681 (Bom) and Bishambarnath Swaroop Narain 119 ITR 681 (All). On appeal, the Id. CIT(A), however, allowed the claim of the assessee following the decision of the ITAT, Cuttuck Bench, Cuttuck in ITA nos.4168/Del/2000 & 3443/Del./2001. I.T.A. No.169/90 in the case of J.C. Budhraj Vs. Income-tax Officer, which in turn followed the decision in Govinda Choudhary & Sons vs. CIT, 109 ITR 497(Orissa) regarding pre award interest. Whereas in the instant case interest was awarded by Hon'ble Bombay High Court from date of decree till payment was made i.e. interest of Rs.1,96,72,751/- was paid by Airport Authority of India on 30.7.1996 to the assessee in the AY 1997-98. In the AY 1998-99, issue relates to interest of Rs.3,33,59,343/- for the period 1.8.1980 to 7.11.1992 i.e. date of award and from 8.11.1992 to the date of actual payment. We find that in the decision relied upon on behalf of the assessee in Govinda Chowdhary & Sons (supra), Hon'ble Orissa High Court was considering the issue of taxability of interest. In that case, the arbitrator had

calculated the amount due to the assessee from the dates on which it fell due under the contract and awarded interest from that date till the date of award. Hon'ble High Court in the light the ratio indicated in Govindarajulu Chetty's case [1967] 66 ITR 465 (SC), held that though the arbitrator styled the payment as interest, it was indeed an ex gratia payment by way of compensation worked out through the medium of interest and, therefore, the amount could not be treated as income exigible to tax. On appeal by the Revenue, before the Hon'ble Apex Court, Id. counsel on behalf of the assessee conceded the answer to the question regarding taxation of interest awarded, in favour of the Revenue. The Id. AR while referring to decision in Govindrajulu Chetty's case [1967] 66 ITR 465 (SC) vehemently argued before us that where interest has been awarded under statute or under contract, the same is income exigible to tax and where it is not attributable to either statute or contract, but has been awarded on ex gratia basis, it would partake the character of compensation. It was further argued that in the instant case, interest was not payable either by statute or by contract and was purely discretionary. On the other hand, Id. DR while relied upon decision in B.N. Aggarwal and Co.(supra).In this decision Hon'ble Apex Court observed as under:

"It is now brought to our notice that the decision of the Orissa High Court in Govinda Choudhury and Sons v. CIT [1977] 109 ITR 497 was brought to this 11 ITA nos.4168/Del/2000 & 3443/Del./2001 court in appeal and has since been disposed of, which is reported in CIT v. Govinda Choudhury and Sons [1993] 203 ITR 881. In the said decision, it is recorded that learned counsel for the assessee conceded that interest did constitute a revenue receipt. The court, however, held on the other question (arising in that appeal) that the said amount of interest cannot be taxed under the head "Income from other sources" which necessarily meant that it has to be taxed as a business receipt. It is true that on the question whether the interest constitutes income or not, the said decision is based upon a

concession but we are of the opinion that it was a concession rightly made and is correct in law. Accordingly, we hold that interest is income and it has to be assessed as a business receipt. The question referred is accordingly answered in favour of the Revenue and against the assessee in the above terms. The appeals are disposed of accordingly."

9.1 Though the Id. AR on behalf of the assessee relied upon the decision in Ghanshyam (supra), we find that the question in that case was as to whether additional amount under s. 23(1A), solatium under s. 23(2), interest paid on excess compensation under s. 28 and interest under s. 34 of the 1894 Act, could be treated as part of the compensation under s. 45(5) of the 1961 Act? and what was the meaning of the words "enhanced compensation/consideration" in s. 45(5)(b) of the 1961 Act? & would it cover "interest"? & year of its taxability. Hon'ble Apex Court held that interest under s. 28 unlike interest under s. 34 is an accretion to the value, hence it was a part of enhanced compensation or consideration which is not the case with interest under s. 34 of the 1894 Act. So also additional, amount under s. 23(1A) and solatium under s. 23(2) of the 1961 (sic-1894) Act forms part of enhanced, compensation under s. 45(5) (b) of the 1961 Act. In fact, this is reinforced by the newly inserted cl. (c) in s. 45(5) by the Finance Act, 2003 w.e.f. 1st April, 2004, Hon'ble Apex Court concluded. We fail to understand as to how the observations made by the Hon'ble Apex Court in this decision rendered in altogether different context and settings, could be applied in the instant case .In the case before us, the ,Id. CIT(A) merely relied upon decision of the ITAT, Cuttuck Bench, Cuttuck in I.T.A. no.169/90 in the case of J.C. Budhreja Vs. Income-tax Officer, which in turn followed the decision in Govinda Choudhary & Sons vs. CIT,109 ITR 497(Orissa). This decision was followed by Hon'ble High Court in CIT vs. B.N. Aggarwala and Co,200 ITR 12 ITA nos.4168/Del/2000 & 3443/Del./2001 246,which has been subsequently reversed by Hon'ble Apex Court in aforesaid

decision reported in 259 ITR 754(SC) wherein Hon'ble Apex Court followed their own decision in Govinda Choudhary & Sons vs. CIT, 203 ITR 881. Hon'ble Apex Court in this decision observed that "it is true that on the question whether the interest constitutes income or not, the said decision is based upon a concession but we are of the opinion that it was a concession rightly made and is correct in law. Accordingly, we hold that interest is income and it has to be assessed as a business receipt." In this decision a dispute arose between the assessee- contractor and the Government and the arbitrator awarded certain amount by way of compensation for the work done as also interest. Interest awarded by arbitrator on compensation amount has been held to be income. Thus, decision in Govinda Choudhary & Sons v. CIT [1977] 109 ITR 497 (Ori.) has been disapproved.

9.2 It may be pointed out that in CIT v. Builders Union [1995] 211 ITR 993 (Orissa) and CIT v. Lenka (A.) and Partners [1995] 215 ITR 298 (Orissa), two different Division Benches of the Hon'ble Orissa High Court in referring to the decision of the Supreme Court on appeal in the case of Govinda Choudhury's case [1993] 203 ITR 881, have held that the earlier decision of that High Court was no longer a good law. Following the ratio of the Supreme Court decision it was held that the interest out of award was taxable. Similar view was taken in CIT vs. Malik Construction Co., 238 ITR 450(All.), wherein Hon'ble High Court held "Now, if the quality of the claim for interest is compensation, for the reason that the claimant had been deprived of the use of the money and had not had his money at the due date, it would be income in his hands. It may be regarded either as representing the profit he might have made if he had had the use of the money in time or conversely the loss he had suffered because he had not had that use."

13. In view of the above discussion and the legal position emerging from the aforesaid decisions, it must be held that the receipt of pre-award and post-award interest is a revenue receipt attributable and incidental to the business carried on by the assessee and it bears the same character of receipts payment of which it was otherwise entitled to under the contract. The disputed amount of interest is only an accretion to the assessee's receipts from the contract business. Accordingly, we have no hesitation in reversing the findings of the Id. CIT(A) and upholding the order of the AO in the assessment orders for these two assessment years. Consequently, grounds raised by the Revenue in these two appeals are allowed."

18. The facts in the above mentioned case are similar to the facts of the instant case. Similarly, the Hon'ble High Court of Utrakhand in the case of BJ Services Co. ME Ltd. held that the interest is taxable.

19. Article 11(2) of the India-USA DTAA mentions as below:

"2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 10 per cent of the gross amount of the interest if such interest is paid on a loan granted by a bank carrying on a bona fide banking business or by a similar financial institution (including an insurance company); and

b) 15 per cent of the gross amount of the interest in all other cases."

20. Further, Section 9(1)(v)(b) of the income tax act mentions as below:

"9(1) the following incomes shall be deemed to accrue or arise in India:-

(v) Income by way of interest payable by-

(b) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India: or..."

21. Hence, keeping in view the fact that the receipt of damages and receipt of interest are two different components and we hold that while the damages are the compensation received is a capital receipt, the interest received be treated as revenue receipt and hence taxable.

22. In the result, the appeal of the assessee is dismissed.

Order Pronounced in the Open Court on 28/08/2024.

Sd/-

(Sudhir Kumar)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 28/08/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR