

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No. 1746/DEL/2018 [A.Y 2013-14]

The A.C.I.T
Circle 1, LTU
New Delhi

Vs. Indian Rail Finance Corp. Ltd
East Tower, UG Floor
Pitahmah Marg, Lodhi Road
New Delhi

PAN : AAACI 0681 C

[Appellant]

[Respondent]

Date of Hearing : 01.09.2021
Date of Pronouncement : 01.09.2021

Assessee by : Shri S. Krishnan, Adv

Revenue by : Ms Sunita Singh, CIT- DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the revenue is preferred against the order of the
Commissioner of Income Tax [Appeals] - 22, New Delhi dated
20.12.2017 pertaining to Assessment Year 2013-14.

3. The solitary grievance of the Revenue is that the Id. CIT(A) erred in deleting the addition of Rs. 3979.84 crores on account of capital recovery as 'lease income' made by the Assessing Officer by treating the lease as 'operational lease' and not a 'financial lease'.

4. At the very outset, the Id. counsel for the assessee brought to our notice that the impugned grievance of the Revenue has already been decided by the Hon'ble High Court of Delhi in favour of the assessee and against the revenue.

5. We find that similar additions were made in A.Ys 2004-05, 2006-07 to 2011-12 and the matter travelled upto the Tribunal. The Tribunal decided the issue in favour of the assessee and against the Revenue. The revenue preferred appeal before the Hon'ble High Court of Delhi for A.Ys 2001-02, 2007-08 to 2009-10 with similar grounds of appeal. The Hon'ble High Court in 362 ITR 548 had the occasion to consider the following issue:

"whether the lease equalization charges can be disallowed/deleted from the assessee profit and loss account for computing book profit under [Section 115JA](#) of the Act?"

6. The Hon'ble Jurisdictional High Court decided the issue in favour of the assessee and against the Revenue.

7. This quarrel was considered by the Hon'ble Supreme Court in the case of Virtual Soft Systems Ltd 404 ITR 409 wherein the Hon'ble Apex Court held that the decision of the Hon'ble High Court cannot be interfered with and in this judgment, the Hon'ble Supreme Court affirmed the order of the Hon'ble High Court of Delhi in the case of the assessee.

8. We find that the ld. CIT(A) has decided the appeal in favour of the assessee by following the precedents as discussed hereinabove. Therefore, we do not find any reason to interfere with the findings of the ld. CIT(A).

9. In the result, the appeal filed by the Revenue in ITA No. 1746/DEL/2018 is dismissed.

The order is pronounced in the open court on 01.09.2021 in the presence of both the rival representatives.

Sd/-

[KULDIP SINGH]
JUDICIAL MEMBER

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 01st September, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

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