

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'A' NEW DELHI**

**BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.- 6713 /Del/2017  
(Assessment Year: 2013-14)**

Barring private equity  
partners (India) private  
limited, A-16/9,  
Vasant Vihar,  
New Delhi 110057

Vs. ACIT,  
circle 4 (1),  
Central Revenue building  
New Delhi-110002

PAN No. AACCB 5013B  
Appellant

Respondent

Assessee by Sh. MP Rastogi, advocate  
Sh. Previn Chand, CA  
Revenue by Sh. Mahesh Thakur, Sr. DR

Date of hearing: 9/6/2021  
Pronouncement on 9/6/2021

**ORDER**

PER K. NARASIMHA CHARY, JM

Aggrieved by the order dated 29/9/2017 passed by the learned Commissioner of Income Tax (Appeals)-44, New Delhi ("the Ld. CIT(A)") in appeal No. 88/2016-17/CIT (A)-44, for the assessment year 2013-14, in the case of M/s Barring Pvt. Ltd partners (India) Private Limited, assessee preferred this appeal.

2. Brief facts are that during the Assessment Year 2012-2013, the assessee had subscribed to 7500 NCDs of Rs. 1,000/- each issued by Muthoot Finance Ltd.; that these NCDs have an interest obligation on the part of Muthoot; that the assessee is entitled to interest on these NCDs; and that the assessee has opted/chosen to receive interest on the maturity/redemption of these Debentures. As per the the Allotment Advice, the assessee is entitled to receive interest on the expiry of 66 months from the date of allotment. Prospectus also makes it clear that the assessee has chosen to receive interest on the date of redemption of NCDs. It is, therefore, evident that on the expiry of 66 months, the assessee is entitled to receive Rs.2,000/- representing Rs. 1,000/- being the face value of NCD and Rs. 1,000/- being the interest for 66 months. The assessee, however, in order to comply with the Accounting Standard, had shown the Interest Income of Rs. 13,63,735/- in its Profit & Loss Account. Accordingly, the assessee excluded the interest of Rs. 13,63,735/- from the total Income while filing the return of income on 29/11/2013 declaring an income of Rs. 5,91,580/-.

3. Learned Assessing Officer, by order dated 22/12/2016 held that inasmuch as the assessee admitted and had shown in the P&L Account that a sum of Rs. 13,63,735/- as income of current year under the head of income, which is not shown in the computation has to be added back to the income of the assessee. In the appeal Ld. CIT(A) observed that the assessee had admitted and shown the interest accrued on the above-mentioned interest of Rs.

13,63,735/-in the P&L Account as the income of the current year under the head "other income", it is not open for the assessee to say anything contrary. On this premise Ld. CIT(A) dismissed the contention of the assessee on this ground.

4. Aggrieved by the same, assessee preferred this appeal contending that for subsequent years the contention of the assessee was accepted and no addition was made in respect of the interest income and as a matter of fact the assessee offered the entire interest income of Rs. 75, 75, 000/-to tax in the year of redemption, namely, 2018-19 which was accepted by the Revenue. He therefore contends that the addition of interest for this particular year amounts to double taxation and also contrary to the conduct of the Revenue in accepting the contention of the assessee for subsequent years.

5. Per contra, it is argued by the Ld. DR that the assessee has been following the Mercantile system of accounting and therefore, the interest accrued in this year was rightly added by the learned Assessing Officer and the orders of the authorities below are in perfect consonance with the accounting policy of the assessee.

6. We have gone through the record in the light of the submissions made on either side. Apart from the contentions relating to the matter of accountancy followed by the assessee, it remains an admitted fact that for the assessment years 2015-16 and 2016-17 there was no objection from the learned Assessing Officer in respect of non-inclusion of this particular interest on

NCDs and the return was processed under section 143(1) of the Act. For the assessment year 2017-18, however, there was a scrutiny of the return of income and the assessing officer accepted the non-inclusion of the interest on NCDs and did not make any adverse comment the consequent addition. It is also an admitted fact that for the assessment year 2014-15 though the learned Assessing Officer made a similar addition as made in this year, in appeal, Ld. CIT(A) deleted the same. It is submitted by the Ld. AR that no appeal was preferred by the Revenue against the relief granted by the Ld. CIT(A) for the assessment year 2014-15 and it has become final.

7. It is, therefore, clear that though the learned Assessing Officer had taken a similar objection for the assessment year 2014-15, it was returned down by the Ld. CIT(A) in appeal and the Revenue accepted the same. Such an acceptance of Revenue is not only for the assessment year 2014-15 but it continued for the subsequent years 2015-16 and 2016-17 and more particularly for the assessment year 2017-18 in which year though the learned Assessing Officer record the return for scrutiny under section 143(3) of the Act, did not take any objection in this regard. Above all, the submission of the assessee is that in the assessment year 2018-19 the assessee offered the entire interest income of Rs. 75, 75, 000/-to tax.

8. In the circumstances, we are of the considered opinion that the rule of consistency demands that the Revenue cannot

approbate and reprobate in respect of the very same issue from year to year and finally remains silent when the entire interest amount was offered to tax in the assessment year 2018-19. We, therefore, find substance in the submissions made on behalf of the assessee and hold that the impugned addition cannot be sustained. We consequently direct the learned Assessing Officer to delete the impugned addition.

9. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 9<sup>th</sup> day of June, 2021 immediately after conclusion of hearing or virtual mode.

Sd/-  
**(R.K.Panda)**  
**ACCOUNTANT MEMBER**  
Dated: 9/6/2021

Sd/-  
**(K. NARSIMHA CHARY)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

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ASSISTANT REGISTRAR  
ITAT NEW DELHI