IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No. 7695/Mum/2025
(Assessment Year: 2014-15)

Lodha Developers Limited (as successor to Shreeniwas Cotton Mills Limited) 412, Floor 4, 17G, Vardhman Chamber, Cawasji Patel Road, Horniman Circle, Fort, Mumbai – 400001. **PAN: AAACL1490J** **(OLD PAN: AAICS9416R)**	**vs**	**Deputy Commissioner of Income Tax, Central Range – 7(3)** Room No. 655, 6th Floor, Aaykar Bhavan, Maharshi Karve Road, Mumbai – 400020.
APPELLANT		**RESPONDENT**

ITA No. 7875/Mum/2025
(Assessment Year: 2014-15)

Assistant Commissioner of Income Tax, Central Circle – 7(3) Room No. 655, 6th Floor, Aaykar Bhavan, Maharshi Karve Road, Mumbai – 400020.	**vs**	**Lodha Developers Limited (as successor to Shreeniwas Cotton Mills Limited)** 412, Floor 4, 17G, Vardhman Chamber, Cawasji Patel Road, Horniman Circle, Fort, Mumbai – 400001.

		PAN: AAACL1490J **(OLD PAN: AAICS9416R)**

Assessee by	:	Shri Niraj Sheth
Revenue by	:	Shri Rajesh Kumar Yadav (CIT-DR) a/w. Shri Surendra Mohan (Sr. DR)
Date of hearing	:	20/04/2026
Date of pronouncement	:	13/05/2026

O R D E R

Per: Anikesh Banerjee (JM):

The instant appeals of the assessee and cross appeal by the revenue filed against the order of the Ld. Commissioner of Income Tax, Appeal-49, Mumbai [for brevity the "Ld. CIT(A)"], order passed under section 250 of the Income Tax Act, 1961 (for brevity the 'Act') for Assessment Year 2014-15, date of order 30.09.2025. The impugned order emanated from the order of the Ld. Deputy Commissioner of Income Tax, Central Circle-7(3), Mumbai (for brevity the "Ld. AO"] order passed under section 143(3) of the Act date of order 30.12.2016.

2. Assessee has raised the following grounds:

1. On the facts and circumstances of the case and in law, the Commissioner of Income Tax (Appeals) erred in confirming the addition/disallowance of Rs. 2,05,97,289/- under section 43CA of the Income Tax Act, 1961.

2. The Appellant craves leave to add, amend, alter or delete the said ground of appeal.

3. Revenue has raised the following grounds:

1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the disallowance of interest expenses amounting to Rs. 35,07,71,725/- without considering the fact that the said expenditure is attributable to the cost of project and was therefore required to be capitalized to work in progress.

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified the disallowance of interest expenses amounting to Rs. 35,07,71,725/- by disregarding the proviso to section 36(1)(iii) of the Income Tax Act, 1961, Accounting Standard 7 and Guidance Note on accounting for real estate transaction issued by the Institute of Chartered Accountants of Indian, which mandates that all expenses directly related to the project have to be carried over and debited to the cost of project and that such expenses can be claimed as deduction in the year in which the corresponding income of the project is credited in the books of account and offered to tax.

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the disallowance of interest expenses amounting to Rs. 35,07,71,725/- by disregarding the matching principle of accounting, according to which expenses have to be booked in the same period in which corresponding income is recognized.

4. Whether on the facts and circumstances of the case and in law, the LD. CIT(A) is justified in deleting the disallowance made on the foreign exchange loss of Rs. 1,17,26,785/-, disregarding Accounting Standard 7 as well as Guidance Note on accounting for real estate transaction issued by the Institute of Chartered Accountants in India, which mandates that all the expenses directly related to the project have to be included in the cost of project.

5. The appellant craves leave to add to alter, amend, modify and/OR DELETE and OR all of the above said grounds of appeal. The appellant reserves its right to file further submission in the appeal.

4. Brief facts of the case are that the assessee is engaged in the business of real estate construction and development. The assessee filed the return and declaring total income of Rs. 72,57,96,430/- which was reversed on 09.03.2015 declaring total income Rs. 72,57,96,430/- and further revised on 31.03.2016 declaring total income Rs. 72,84,96,480/-.The case was selected for scrutiny under CASS. The assessment order was passed and the disallowance was made in different heads. The assessee challenged the order of Ld. AO before the Ld. CIT(A). Related to capitalization of interest to WIP amount to Rs. 35,07,71,725/-, foreign exchange loss amount to Rs. 1,17,26,785/-and disallowance u/s 43CA amount to Rs. 2,05,97,289/-, disallowance u/s 14A amount to Rs. 15,49,452/- and leave encashment Rs. 19,84,570/-. The Ld. CIT(A) passed the order and partly allowed the appeal of the assessee. Being aggrieved, the assessee challenged the additions related to disallowance u/s 43CA and the revenue challenged the deletion of addition related capitalization of interest to WIP and foreign exchange loss before us.

ITA 7695/Mum/2025(Assessee's Appeal)

5. The Ld. AR argued filed a paper book comprising pages 1 to 261 which has been placed on record. The Ld. AR contented that in connection with the disallowance of Rs. 2,05,97,289/- under section 43CA of the Act, it was submitted on behalf of the assessee during the course of hearing that during FY 2011-12 the assessee had sold flat nos. 2301 and 2302 in the project "World View" at

23rd Floor to M/s Life Style Trading & Investment Advisors Pvt. Ltd. for Rs. 1,03,26,996 and to M/s Life Style Holdings & Properties Pvt. Ltd. for Rs. 1,38,85,623 respectively. The Assessee had received the booking amounts of Rs. 9,00,000 each from the said customers in FY 2011-12 but the registration of the agreement to purchase was done subsequently in FY 2013-14. Copies of application forms, cheques issued and allotment letters in respect of aforementioned flats have already been submitted in APB. It was further argued that the date of booking should be considered as date of agreement and date of letter of allotment should be considered as the date of transfer of asset which in the present case is in FY 2011-12. Given that the provisions of section 43CA were introduced with effect from AY 2014-15, the same will not be applicable in the present case. Respectful reliance was placed on the following decisions in support of the proposition that section 43CA does not apply if it was not on the statute book when the transaction was initiated:

- **Spenta Enterprises Vs. ACIT-17(3)** in **ITA No.2133/Mum/2019**, order dated **27.01.2022**

6. In this connection, the assessee was directed by the Bench to produce copies of bank statements evidencing the receipts of booking amounts from customers during FY 2011-12, which are enclosed herewith as Annexure 1. At the time of the hearing, the attention of the Bench was drawn to the agreements for sale of the two flats wherein the factum of receipt of the booking amount by cheque from the two purchasers was duly mentioned. The aforesaid bank statement supplements and confirms that the booking

amount was indeed received much prior to the introduction of section 43CA into the statute. Therefore, it is submitted that the ratio of the aforementioned decisions will fully apply and section 43CA cannot be invoked in the case of the assessee.

7. The Ld. DR argued and stated that the assessee had sold the flat no. 2301 and 2302 in his project "World View" at 23th floor to Lifestyle Trading Investments and Lifestyle Holdings and Properties respectively for a total agreement value of Rs. 2,42,12,619/-. The assessee had completed the registration in the impugned assessment year and the registering authority valued the property amount to Rs. 4,48,09,908/-. So, the difference amount to Rs. 2,05,97,289/- is liable to be added u/s 43CA of the Act. The Ld. DR opposed the argument of the Ld. AR and stated that during the registration the assessee is liable to the provision of section 43CA which is inserted with effect from 1st April, 2014. The Ld. DR stands in favour of the orders of revenue authorities.

8. We heard the rival submissions and considered the material available on record. Upon verification of the records, we find that the assessee had sold two properties bearing Flat Nos. 2301 and 2302. According to the Ld. AO, the difference between the agreement value and the stamp duty/market value amounted to Rs.2,05,97,289/-, which was liable to be taxed under section 43CA of the Act. The assessee, however, furnished documentary evidence demonstrating that an amount of Rs.9,00,000/- each had been received from the respective parties during Financial Year 2011-12,

whereas the registration of the agreements for purchase was subsequently carried out in A.Y. 2014-15. In support of the said contention, the assessee placed on record copies of the bank statements for F.Y. 2011-12, copies of the agreements, and allotment letters issued to the parties. The records further reveal that the assessee had received the aforesaid payments from the parties on 24.08.2011. Considering the aforesaid facts, we respectfully rely upon the judgment of the Hon'ble Bombay High Court in the case of **M/s Zain Construction v. ITO and Others** reported in **(2019) 265 Taxman 82 (Mag.) (Bom.)**, wherein the SLP preferred by the Revenue was dismissed by the Hon'ble Supreme Court reported in **(2020) 269 Taxman 274 (SC)**. In the said decision, the Hon'ble High Court has categorically held that the provisions of section 43CA, inserted with effect from 01.04.2014, have no applicability in respect of units sold prior to the said date, i.e., in Assessment Year 2013-14. Reliance was also placed upon the decision of the Coordinate Bench of the ITAT Mumbai in the case of **Spenta Enterprises Vs. ACIT** in **ITA No.2133/Mum/2019**, order dated **27.01.2022**. The relevant observations contained in paragraph 9 are reproduced hereunder:

"9. Upon assessee's appeal, Ld. CIT(A) has held that he was of the opinion that invariably the stamp value date on registration has to be adopted and hence, he was upholding the order of the AO. I find that this is quiet contrary to what the AO has held. AO has clearly accepted the assesse's contentions that he is in agreement that ready reckoner valueon the date of allotment is being considered. Hence, the reason for Ld. CIT(A) in upholding the addition is not as per the facts on record. In any case, I note that this is assessee's plea that section 43CA was introduced w.e.f. 01.04.2013 and the agreement under consideration were entered into prior to 31.03.2013. Further, this is assessee's plea that difference in only 5% between the ready reckoner rate and

sale consideration. Hence, this is assessees plea that the same has to be ignored on the touchstone of ITAT, Mumbai decision in the case of Krishna Enterprises vs ACIT. I am of the considered opinion that the assesses succeeds on both the counts. Hence, I set aside the orders of the authorities below and decide the issue in favour of the assessee."

Accordingly, we find that the flats were allotted and the agreements were duly executed during A.Y. 2012-13 itself. Therefore, the rigours of section 43CA of the Act would not be applicable to the impugned transactions. Respectfully relying upon the decisions in the cases of **M/s Zain Construction** (supra) and **Spenta Enterprises** (supra), we hold that the addition of Rs.2,05,97,289/- made by the Ld. AO is unsustainable in law and liable to be deleted. Accordingly, the ground raised by the assessee stands allowed.

ITA No.7875/Mum/2025 (Revenue's Appeal)

9. The Ld. DR argued related to deletion of capitalization of interest of WIP. The Ld. DR invited our attention in impugned assessment order para 7 which is reproduced as below:

> *"7.* ***Capitalisation of interest to work in progress****:*
>
> *7.1 During the year under consideration, the assessee is developing residential projects named World One, World Crest and World View at Lower Parel, Mumbai. The assessee being a company is following mercantile system of accounting and for the purposes of recognizing the revenue from the above project, it is following percentage completion method of accounting. The assessee, for the purposes of construction has borrowed interest bearing funds from the group concern; the loan outstanding as on 31.03.2014 is Rs. 1914.88 Crores. On the said funds, the assessee has paid the interest of Rs. 191.45 Crores and after reducing*

the interest income of Rs.144.94 Crores net interest expenses of Rs.46.51 Crores have shown as expenses. Out of the total interest expenses of Rs. 46.51 Crores, the assessee has capitalized an interest of Rs. 35.08 Crores to work in progress. The said interest of Rs.35,07,71,725/-, capitalized in the books of accounts have been claimed as deduction in the return of income. Therefore, the assessee was asked to explain as to why the interest expenses claimed in the return of income shall not be disallowed.

7.2 The assessee file submission wherein it has stated that the interest expenses has been claimed as deduction in the year of incurrence thereof for the reason that the interest is periodic cost; hence, the claimed in the year for which it belongs to. The assessee also submitted that such interest cost has been claimed as deduction as the same is allowed u/s 36(1)(iii) of the I.T. Act being interest pertaining to stock in trade of the assessee. The assessee relied upon the judgment of Hon'ble Supreme Court in the case of ***Taparia Tools Pvt. Ltd vs JCIT [Civil Appeal No 6366/2003 5C) and CIT vs Lokhandwala Construction Inds Limited [260 ITR 0579 Bom]****.*

7.3 The assessee's explanation has been perused, however, not found satisfactory. The accounting of the construction activity is governed by the Accounting Standard 7 as well as guidance note on accounting for real estate transaction issued by the Institute of Chartered Accountants of India (ICAI). The said guidance note categorically states that all the expenses directly related to the project have to be carried over and debited to the cost of project. Such expenses can be claimed as deduction in the year in which the corresponding income of the project is credited in the books of account and offered to tax. It is interesting in the case of the assessee that it has allocated all other expenses to the work in progress except interest. If the assessee's contention is to be accepted that the interest cost has been claimed in the year of its incurrence for the reason

that it is periodic cost then going by the same logic the entire salary cost should also have been claimed as deduction for the same reason that it is also a periodic fixed cost. However, the assessee has allocated the salary cost to the work in progress which are directly related to the project. Thus, the treatments given by the assessee to expenses are contradictory to each other. It is not out of the place to state that the assessee has not followed the correct method of accounting for accounting the expenses towards the project being developed by the assessee. Thus, the entire interest expenses have to be carried over to the work in progress and shall be allowable as deduction in the year in which the revenue pertaining to the said interest shall be offered for taxation.

The above view is fully supported by the judgment of Hon'ble Special Bench Mumbai in the case of ***M/s Wall Street Construction Limited [102 TTJ 505]*** *wherein the Hon'ble bench has held that the interest cost shall be debited to work in progress and allowed to be claimed as deduction only in the year in which corresponding Income is offered to tax. The case laws relied upon by the assessee is distinguishable as in the case of Taparia (supra), the assessee was not a construction company so its distinguishable on facts. The judgment of lokhandwala (supra) were rendered before the proviso to section 36(1)(iii) has been inserted vide Finance Act 2003. Therefore, both the cases are not applicable in the facts of the assessee. In view of the above facts and legal position, the interest cost of Rs. 35,07,71,725/- is disallowed and added to the work in progress of the assessee.*

10. The Ld. DR further argued that the capitalization of interest to WIP amount of Rs. 35,07,71,725/- was claimed as deduction under section 36(1)(iii) of the Act, being interest pertaining to stocking trade of the assessee. So, the assessee respectfully relied on the order of the Taparia Tools Private Limited (supra) & fact is

distinguishable. The Ld. DR respectfully relied on the order of Hon'ble Special Bench of Mumbai in the case of ***Wall Street Construction Limited vs. JCIT*** reported in **[2006] 5 SOT 103 (Mum) (SB)**. The relevant paragraph 30 is reproduced as below:

> *"30. From the above, it may be seen that the facts were entirely different. There was no question regarding the project completion method and determination of the cost of project in the case of a builder. The other two cases relied upon by the Id. counsel for the assessees namely viz., Mopeds India Ltd. case (supra) decided by Hon'ble Andhra Pradesh High Court and Carburandum Universal Lids case (supra) decided by the Madras High Court are also on the question of valuation of stock. These cases, in our view, cannot be applied for the purpose of determination of the cost of work-in-progress in the case of a builder, who is following project-completion method. For the same reasoning, we do not find much merit in the arguments of Id. counsel for the assessee that adding finance costs to the value of work-in-progress would artificially inflate the market price of the project. This argument may be relevant for a case where profits chargeable to tax are determined from year to year. In such a case, valuation of closing stock either at cost or market price whichever is lower, assumes importance. However, in the case of a builder following project-completion method of accounting, this has no relevance for the simple reason that the determination of profits chargeable to tax are postponed to the year in which the project is completed or is substantially completed. In our view, the true profits in such a case can be determined only when entire cost of the project, direct or indirect, including finance cost is added to the value of work-in-progress. This proposition is also fortified by the matching concept, as propounded by the Hon'ble Bombay High Court in the case of Taparia Tools Lid. (supra). In the present cases, the assessees have identified interest cost and have allocated such cost to different*

projects in the books of account, but deduction in respect of interest is claimed under section 36(1)(iii) against the income of some other projects which are completed during the relevant years. In our view, this procedure results, into distortion of the correct profits which must be determined as per the project-completion method followed by the assessees.

11. The Ld. DR further relied on the order of Coordinate Bench of ITAT, Mumbai in the case of ***Aditya Birla Power Company Limited vs. ITO*** reported in ***[2010] 4 ITR (T) 658 (Mumbai).*** The relevant para 20 is reproduced as below:

"20. After bearing both sides, we do not find any infirmity in the order of the Commissioner of Income-tax (Appeals). We find the assessee without any firm commitment from any party pumped its borrowed funds in a BPO project which has subsequently been taken over by another group company at cost. In our opinion, the cost which has been incurred by the assessee on the project in the year under consideration is nothing else but the work-in-progress of the project since during the year under consideration there was not even a confirmed party for which the project was being carried out. Therefore, we agree with the findings of the Commissioner of Income-tax (Appeals) that the correct treatment would have been to treat the entire interest expenses as work-in-progress and the pro rata disallowances made during the year have to be actually made for the following year. The decision of the Hon'ble Bombay High Court in the case of CIT v. Lokhandwala Construction Inds. Ltd. (2003) 260 ITR 579 relied on by the assessce to claim the interest as deduction under section 36(1)(iii) of the Act is, in our opinion, not applicable to the facts of the present case since the assessee is neither a contractor nor doing any service. In this view of the matter, we do not find any infirmity

in the order of the Commissioner of Income-tax (Appeals) and accordingly uphold the same. This ground raised by the assessee is accordingly dismissed.

12. The Ld. DR advanced his argument related to deletion of addition foreign exchange loss debited to profit and loss account amount to Rs. 1,17,26,785/-. The Ld. DR invited our attention in impugned appellate order where the Ld. CIT(A) has considered the impugned assessment order related to his observations and the ground of the assessee was allowed. The relevant paragraph no. 7.11 to 7.13 is reproduced as below:

*"**7.11. Ground No. 6: Disallowance of Foreign Exchange Gain/(Loss) of Rs. 1,17,26,785/-**.*

The relevant extract of the assessment order is reproduced for reference.

*"8. **Foreign Exchange loss debited to Profit and loss account***

The assessee has shown foreign exchange loss amounting to Rs 1,17,26,785/- in A.Y.2014-15. Assessee was asked to provide the details regarding the foreign exchange loss. From the details of foreign exchange loss submitted it was seen that the loss was due to consulting charges paid to foreign parties with respect to consultancy pertaining to the construction cost of the projects, Hence the assessee was asked as to why the exchange loss pertaining to construction projects was not allocated to cost of project. The assessee has submitted that it is done on the basis of accounting standards 11. Accounting Standard 11 on Accounting for the effect of changes in foreign exchanges rates issued by ICAI mandates the entire amount of exchange gain/loss to be charged to profit and loss account. The assessee's submission has been perused carefully,

however, the same is not acceptable. The assessee has fairly conceded that it has capitalized all the expenses to work in progress which are directly related to projects. The assessee also accepted that the said losses are pertaining to the direct expenses which are capitalized to work in progress. I failed to understand as to when all the direct expenses are capital to work in progress then why the foreign exchange loss consequential thereto shall not be capitalized to work in progress. The assessee's reliance on AS 11 has also been perused, however, it was not found in order. The Accounting standard says that an exchange difference results when there is a change in the exchange rate between the transaction date and the date of settlement of any monetary items arising from a foreign currency transaction. When the transaction is settled within the same accounting period as that in which it occurred, all the exchange difference is ***recognised in that period****.* ***However, when the transaction is settled in a subsequent accounting period, the exchange difference recognised in each intervening period up to the period of settlement is determined by the change in exchange rates during that period****. The AS does not talk of a situation when expenses are related to work in progress. In such circumstances, it is very clear that when the expenses are capitalized to work in progress then the consequential loss pertaining thereto shall also be capitalized to work in progress. The accounting of the construction activity is governed by the Accounting Standard 7 as well as guidance note on accounting for real estate transaction issued by the Institute of Chartered Accountants of India (ICAI). The said guidance note categorically states that all the expenses directly related to the project have to be carried over and debited to the cost of project. Such expenses can be claimed as deduction in the year in which the corresponding income of the project is credited in the books of account and offered to tax. The*

assessee ha not submitted the break-up of the said expenses towards construction and otherwise. The assessee has not submitted the breakup of the said expenses towards construction or otherwise. ***Hence, the entire foreign exchange loss of consultancy charges paid is held to be related with project work. Hence the amount of Rs. 1,17,26,785/- is disallowed****.*

7.12. In support of the grounds of appeal, following submission is made:

"5.1 During the year under consideration, the Appellant had incurred foreign exchange loss of Rs 1,17,26,785 on account of consulting charges payable to foreign parties. The treatment of the said loss was in accordance with AS-11 issued by the institute of Chartered Accountants of India The said AS-11 requires the entire amount of exchange/gain to be charged to profit/Loss account

5.2 The Ld AO however disagreed with the view of the appellant that AS-11 is applicable in respect of treatment of foreign exchange loss and was of the view that "AS-7 - Accounting of the Construction Activity" and "Guidance Note on accounting for Real Estate Transaction issued by Institute of Chartered Accountants of India" would apply in the case of the assesse and accordingly held that the loss would be capitalised to work in progress. The Ld. AO thereby made an addition of Rs. 1,17,26,785/-.

5.3 At the outset, it is submitted that the Foreign Exchange gain/ (loss) is in relation to various consultancy charges and is allowable as revenue expenditure which is also in accordance with AS-11 on accounting for the effect of changes in foreign exchange rates issued by ICAI AS-11 mandates that the entire amount of exchange gain/ (loss) to be charged to Profit & Loss A/c irrespective of accounting policy followed by the Appellant.

5.4 Further, the learned AO failed in appreciating the fact that foreign exchange gain/ (loss) relates to consultancy charges and hence, its revenue in nature and allowed to as deduction in the year in which it has been incurred.

5.5 The above principle is also supported by the decision of the Hon'ble Supreme Court in the case of ***Woodword Governor (I) Pvt Ltd. (2009) 179 taxmann 326 (SC)*** *has observed that AS-11 is mandatory in nature. It was also held that the term "expenditure" in section 37 of the Act covers an amount which is a "loss" even though the said amount has not gone out from the pocket of the assessee. The "loss" suffered by the assessee on account of the exchange difference as on the date of the balance sheet is an item of expenditure u/s 37(1) and hence is allowable deduction.*

5.6 The Appellant further places reliance on the decision of ***Hon'ble Mumbai Tribunal in case of Tata Consultancy Services Ltd. Vs. Commissioner of Income-tax, LTU, Mumbai [2019] 108 taxmann.com 41 (Mumbai - Trib.)****, wherein at para 5 it was held as under,*

"It is also pertinent to mention that AS-11 as well various judgments including decisions of Hon'ble Supreme Court in the case of Woodward Governor India (P.) Ltd. (supra) has consistently held that both gains or losses on account of exchange rate fluctuations on the reporting date is to be accounted for fo bring to tax while computing income chargeable to tax and it does not only refer to losses sustained on the reporting date owing to exchange rate fluctuations to be taken into account while computing income chargeable to tax. It is unlike in AS-2 which dealt with valuation of inventories which speaks of valuing inventory on the closing date at cost or market value whichever is less, while AS-11 did not speak of only accounting for losses owing to exchange rate fluctuations but it

speaks of both losses or gains to be accounted for on exchange rate fluctuations on the reporting date. Thus, assessee was bound by law to follow AS-11 which stipulated that unrealized gains/losses on open forward contract in foreign exchange is to be duly accounted for based upon the closing rate of foreign exchange at the date of balance sheet on mark to market basis.

5.7 Further, recently, Hon'ble Mumbai Tribunal has decided similar issue in favour of the Appellant's group company Macrotech Developers Ltd. (Successor to Bellissimo Crown Buildmart Pvt. Ltd.) ITA No. 2266/Mum/2022 for AY 2017-18 vide order dated 17 April 2023 (Copy of order is enclosed herewith as ***Annexure 9****), the Hon'ble Mumbai Tribunal at para 36 held as under*

> *"The foreign exchange gain or loss arises when the amount of sundry creditors outstanding at the time of payment are settled. The sundry creditors are the monetary items as per the Ind As 21. Even as per the Accounting Standard 2, monetary items are not required to be carried to thecost of inventory. Therefore, the foreign exchange gain or loss arising on settlement of dues of sundry creditors does not have any correlation with the cost of inventory or puttling 88 the present location Hence, it is not required to be included in the cost of project/cost of inventory The accounting treatment of the assessee is supported by the authoritative pronouncement of the institute of chartered accountants of India as well as the Ministry of corporate affairs In view of this, we do not find any substance in the findings of the lower authority that foreign exchange loss on purchase of material should be included in the cost of project Accordingly, the foreign exchange loss of 9,906, 468/- incurred by the assessee is revenue expenditure*

and cannot be included in the cost of project. Accordingly, we allow ground number 3 of the appeal of the assessee."

5.8 Further, the Hon'ble Mumbai Tribunal has decided similar issue in favour of the Appellant's group company Macrotech Developers Ltd. (Successor to Bellissimo Crown Buildmart Pvt. Ltd) ITA No 2385/Mum/2022 for AY 2015-16 vide order dated 5 December 2023 (Copy of order is enclosed herewith as Annexure 10), wherein Ld. AO had disallowed foreign exchange loss of Rs. 1,68,30.320 on account of consultancy charges payable to foreign parties.

5.9 It is pertinent to note that the aforesaid issue has been decided in favour, by your goodself for AY 2013-14 in the case of Appellant's group company, M/s Macrotech Developers Ltd. Copy of order is enclosed herewith as ***Annexure 8.***

5.10 Further, the Appellant places reliance on the following judicial precedents

- *Principal Commissioner of Income-tax Vs Suzion Energy Ltd. [2020] 121 taxmann.com 137 (SC)*
- *Principal Commissioner of income-tax Vs. Vedanta Ltd [2023] 146 taxmann.com 34 (SC)*
- *Vassantram Mehta & Co. (P) Ltd Vs Joint Commissioner of Income-tax, Goa [2015] 63 taxmann.com 102 (Bombay)*
- *Principal Commissioner of Income Tax. Bengaluru Vs. Mphasis Ltd. [2021] 128 taxmann.com 138 (Karnataka)*
- *Everest Industries Ltd Vs. Deputy Commissioner of Income-tax [2022] 141 taxmann.com 176 (Mumbai -Trib)*

5.11 In view of the above, the Appellant humbly submits that the disallowance of foreign exchange loss of Rs 1,17,26.785 ought to be deleted."

7.13. I have considered the discussion made in the order of assessment and the submission of the appellant. The issue in question is disallowance of foreign exchange loss arising on payment of consulting charges made to foreign parties. AO has disallowed the same on the ground that the expenses should have been capitalised. Before me, appellant has argued that the expenses are revenue in nature. It has relied upon the decision of Hon'ble ITAT in its group cases. I am of the view that the consulting charges as such is a revenue item of expenditure and therefore the foreign exchange loss arising on the same should also be allowed as revenue expenditure. Even if the consulting charges are treated as capital expenses, it is seen that the Hon'ble ITAT has allowed foreign exchange loss on items of capital expenditure in the group cases. Respectfully following the decisions of Hon'ble ITAT, the issue is decided in the favour of the appellant. AO is directed to delete the addition of Rs. 1,17,26,785 /-. The Ground no 6 is ***allowed****."*

13. The Ld. AR advanced his argument and filed a written note related to both the grounds. The relevant paragraph no. 2 of the written note is reproduced below:

"2.1 During the year under consideration, the Assessee borrowed funds from various parties and utilised the same for business purposes. The Assessee had incurred interest expenses of Rs. 1,91,45,00,504/- and earned interest income of Rs. 1,44,94,00,829/- resulting in net interest expense of Rs. 46.50.99.675. Following the Percentage of Completion method, interest of Rs. interest cost of Rs. 11,43,27,950/- to the Profit & Loss Account. The Appellant has claimed interest 35,07,71,725/- was included in the work-in-progress and accordingly, the Assessee debited net Cost of Rs. 35,07,71,725/- in the income tax return being a period cost in accordance with the provisions of Section

36(1)(iii) of the Act. However, the Learned Assessing Officer ("AO") has not accepted the claim of the Appellant and disallowed the interest expenses of Rs.35,07,71,725/- in the assessment order. It may be noted that the AO has examined the interest payment and interest receipt accepted the claim of the Appellant and has disallowed the interest receipts and, thereafter, by confining the addition to Rs. 35,07,71,725/-, has accepted the nexus between the interest payment and interest receipts. The limited issue that has been raised in the appeal by the Department is whether the amount of Rs. 35,07,71,725/- is allowable in the year of incurrence itself, namely, the year under consideration or is it required to be taken to work in progress.

2.2 It is submitted that this issue is covered in favour of the Assessee by a number of decisions in the case of the Assessee's group companies. Before the Learned Commissioner of Income Tax (Appeals) ("CIT(A)"), a list of about 14 decisions of the Hon'ble Mumbai Tribunal were cited and the CIT(A) has decided the issue in favour of the Assessee by following the ITAT's decision in the case of Lodha Developers Ltd. (Formerly known as Macrotech Developers Ltd.) for AY 2015-16 in ITA No 68/Mum/2019.

2.3 In all these decisions, the ITAT has consistently followed the Hon'ble Bombay High Court's decision in Commissioner of Income-tax Vs. Lokhandwala Construction Inds. Ltd. (2003) 260 ITR 579 and has also distinguished the decision of the Special Bench in Wall Street Construction Ltd. Vs. Joint Commissioner of Income-tax, Special Range-12, Mumbai [2006] 101 ITD 156 (MUM.) (SB) which was relied upon by the AO and also was referred by the learned DR. An illustrative list of the decisions, wherein the Hon'ble Mumbai Tribunal has allowed deduction of interest under section 36(1) (iii) of

the Act following the decision in Lokhandwala's case is enclosed herewith as Annexure 2.

2.4 Therefore, it is submitted that in view of the narrow issue arising in the Department's appeal, and which issue is concluded by the aforementioned decisions of the Tribunal, the Hon'ble Bench may be pleased to dismiss the department's ground of appeal.

2.5 The Hon'ble Bench directed the Assessee to submit the party wise details of borrowings along with copies of agreements. The Assessee encloses herewith party wise details of borrowings outstanding as on 31 March 2014 in the books of Assessee along with sample copies of agreements/balance confirmations as Annexure 3. However, it is pertinent to note that no doubt was ever casted by the lower authorities or by the learned DR at the time of the hearing as to the genuineness of the transaction. The AO had disallowed the interest on pure legal issue which was decided in favour of the Assessee by CIT(A).

2.6 It is therefore prayed that the Tribunal be pleased to decide the issue arising for consideration before it, namely, whether the interest of Rs. 35,07,71,725/- is allowable in the year under consideration or is it required to be added to the work-in-progress. The said issue as earlier submitted is covered in several of the Assessee's group company's cases.

2.7 It is respectfully submitted that the Appellant may be given an opportunity of being heard before an adverse view in the matter, if any, is taken by the Hon'ble Bench."

14. The Ld. AR contended that the related to capitalization of interest to work in progress, the issue was decided by the Ld. CIT(A) relied on the order of appellant's own case for A.Y. 2013-14 and in the case of Macrotech Developers Private Limited in ITA No.68/Mum/2016 for A.Y. 2015-16. Accordingly, the Ld. AR prayed to rejection of revenues appeal but related to foreign exchange loss debited to profit and loss account, the Ld. AR stated that the foreign exchange loss arising on the payment of consultancy fees to the party for construction of project. So, the foreign exchange loss is not a capital expenditure, as it is debited in the profit and loss account. The Ld. AR prayed for dismissing both the grounds of the revenue.

15. We heard the rival submissions and considered the material available on record. The first issue raised by the revenue relates to deletion of disallowance on account of capitalization of interest to work-in-progress amounting to Rs.35,07,71,725/-. The Ld. AO was of the view that since the assessee was following percentage completion/project completion method for its real estate projects, the interest expenditure attributable to the projects ought to have been carried to work-in-progress and allowed only in the year in which corresponding revenue is recognized. For this proposition, reliance was placed upon the decision of the Special Bench of the Mumbai Tribunal in the case of **Wall Street Construction Ltd**. (supra) and also on the decision in **Aditya Birla Power Company Ltd.** (supra) However, on perusal of the record, we find that the assessee had borrowed funds for the purposes of its business and

the interest expenditure was incurred wholly and exclusively for business purposes. The assessee had consistently claimed such expenditure under section 36(1)(iii) of the Act as a period cost. We further find that identical issue has repeatedly arisen in the assessee's own group cases and the Coordinate Benches of the Tribunal, while following the judgment of the Hon'ble Bombay High Court in the case of **Lokhandwala Construction Inds. Ltd**. reported in **260 ITR 579 (BOM)**, have consistently held *section 36(1)(iii) of the Income-tax Act, 1961 - Interest on borrowed capital - Assessment year 1987-88 - Assessee-company was engaged in construction of buildings - It undertook a project and obtained certain loan for work-in-progress - Whether project obtained constituted stock-in-trade and, therefore, interest paid on borrowed capital was an allowable deduction - Held, yes - Whether while adjudicating claim for deduction under section 36(1)(iii), nature of expenses - Whether expenses are on capital account or revenue account is irrelevant.* We also note that the Ld. CIT(A) has followed the orders passed in the assessee's own group concerns including the decision in the case of **Macrotech Developers Ltd**. (supra) for earlier years. No distinguishing facts have been brought on record by the revenue to deviate from the consistent judicial view already taken by the Coordinate Benches. Respectfully following the binding precedent of the Hon'ble Jurisdictional High Court in the case of **Lokhandwala Construction Industries Ltd.** (supra), we allow the deduction claimed by the assessee u/sec. 36(1)(iii) of the Act. However, for safeguarding the interest of the revenue, we restore this issue to the

file of the Ld. AO for the limited purpose of verifying whether the investment in respect of which deduction u/sec. 36(1)(iii) has been claimed is related to the business of the assessee. The assessee shall not be entitled to claim double benefit. Accordingly, the deduction u/sec. 36(1)(iii) amounting to Rs.35,07,71,725/- shall be allowed subject to verification that the same has not been claimed as part of the WIP. Accordingly, the ground raised by the revenue is allowed for statistical purpose.

16. So far as the second issue relating to deletion of foreign exchange loss amounting to Rs.1,17,26,785/- is concerned, we find that the said loss had arisen on account of consultancy charges payable to foreign parties in connection with the assessee's business operations. The Ld. AO treated the same as part of project cost and directed capitalization to work-in-progress. However, the assessee contended that the treatment was in accordance with Accounting Standard-11 and the same represented revenue expenditure allowable in the year of incurrence. We find force in the submissions of the assessee. The Hon'ble Supreme Court in the case of **Woodward Governor India Pvt. Ltd.**(supra) has categorically held that exchange fluctuation loss as on the balance sheet date is an allowable expenditure and AS-11 is mandatory in nature. Further, the Coordinate Bench of the Mumbai Tribunal in assessee's own group concerns including **Macrotech Developers Ltd**. (supra) has consistently held that foreign exchange gain/loss arising on settlement of monetary items such as consultancy charges or sundry creditors does not form part of inventory/project

cost and is allowable as revenue expenditure. The Ld. CIT(A), after considering the aforesaid judicial precedents, has rightly granted relief to the assessee. The revenue has failed to controvert the factual findings recorded by the Ld. CIT(A) or to bring any contrary binding precedent on record. Therefore, respectfully following the judicial pronouncements relied upon by the Ld. CIT(A), we uphold the order of the Ld. CIT(A) deleting the disallowance of foreign exchange loss amounting to Rs.1,17,26,785/-. Accordingly, this ground of the revenue is also dismissed.

In the result, the appeal filed by the revenue in **Ground Nos. 1 to 3** are allowed for statistical purposes and the **Ground No. 4** is dismissed and **Ground No. 5** is general in nature.

17. In the net result, the appeal of the assessee bearing **ITA No.7695/Mum/2025** is allowed and the revenue's appeal **ITA No. 7875/Mum/2025** is partly allowed for statistical purposes.

Order pronounced in the open court on 13th day of May, 2026.

Sd/-	Sd/-
(OM PRAKASH KANT)	**(ANIKESH BANERJEE)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai,दिनांक/Dated: 13/05/2026
Soumili Das, PS

Copy of the Order forwarded to:
1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT

4. विभागीयप्रतिनिधि, आय.अपी.अधि., **मुंबई**/DR, ITAT, Mumbai
5. गार्डफाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar), **ITAT, MUMBAI**