आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No. 2230/Chny/2026**
SA No.126/Chny/2026
निर्धारण वर्ष / Assessment Year: 2018-19

आयकर अपील सं./**ITA No. 2231/Chny/2026**
SA No.127/Chny/2026
निर्धारण वर्ष / Assessment Year: 2019-20

आयकर अपील सं./**ITA No. 2232/Chny/2026**
SA No.128/Chny/2026
निर्धारण वर्ष / Assessment Year: 2020-21

आयकर अपील सं./**ITA No. 2233/Chny/2026**
SA No.129/Chny/2026
निर्धारण वर्ष / Assessment Year: 2021-22

आयकर अपील सं./**ITA No. 2234/Chny/2026**
SA No.130/Chny/2026
निर्धारण वर्ष / Assessment Year: 2022-23

आयकर अपील सं./**ITA No. 2235/Chny/2026**
SA No.131/Chny/2026
निर्धारण वर्ष / Assessment Year: 2023-24

आयकर अपील सं./**ITA No. 2236/Chny/2026**
SA No.132/Chny/2026
निर्धारण वर्ष / Assessment Year: 2024-25

OPC Asset Solutions Pvt. Ltd. Ground Floor, Block No.B, 809, EGA Trade Centre Poonamallee High Road Kilpauk, Chennai – 600 010.	vs.	**The Joint Commissioner of Income-tax (OSD)** TDS Circle 2 Chennai.
[PAN: AAACO7555K] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Yogesh A.Thar, CA

प्रत्यर्थी की ओर से/Respondent by : Ms. Swarnalatha V., Addl.CIT

सुनवाई की तारीख/Date of Hearing : 22.06.2026

घोषणा की तारीख/Date of Pronouncement : 06.07.2026

आदेश /O R D E R

PER BENCH :

The assessee filed these appeals challenging the seven separate orders passed by Ld.ADDL/JCIT(A)-3, (in short "ld.CIT(A)) Bengaluru dated 30.03.2026, and they relate to the assessment years 2018-19 to 2024-25. The issues urged in all these appeals are identical in nature, viz., validity of the tax demand raised u/s.201(1) and interest u/s.201(1A) by passing separate orders by the AO, for alleged non-deduction of tax at source from the discounting charges, which was considered by the AO to be in the nature of interest liable for deduction of tax at source u/s.194A of the Act.

2. The brief facts of the case emanating from the records are that the assessee is a domestic company engaged in the business of Asset Life Cycle Management (ALCM), i.e., it deals in the residuary interest in movable assets, which are rented out to its customers. The assessee was subjected to survey operations u/s.133A of the Act on 07.02.2024, wherein it was noticed that the assessee was liable to deduct tax at source u/s.194A of the Act on 'discounting charges', which are akin to interest expenses. However, the assessee had not deducted TDS on the discounting charges. Consequent thereto, the AO passed the impugned orders treating the assessee as 'assessee in default' for non-deduction of tax at source on 'discounting charges' as detailed below:

Sl. No.	Asst.Year	Date of Assessment Order	Section	Demand (Rs.)
1.	2018-19	12.03.2025	Sec.201(1) / 201(1A)	2,39,45,534
2.	2019-20	13.03.2025	Sec.201(1) / 201(1A)	2,77,57,952
3.	2020-21	14.03.2025	Sec.201(1) / 201(1A)	98,97,540
4.	2021-22	14.03.2025	Sec.201(1) / 201(1A)	96,07,960
5.	2022-23	14.03.2025	Sec.201(1) / 201(1A)	43,36,855
6.	2023-24	12.03.2025	Sec.201(1) / 201(1A)	84,36,346
7.	2024-25	17.03.2025	Sec.201(1) / 201(1A)	1,07,11,229

3. Aggrieved by the orders of the Assessing Officer, the assessee preferred separate appeals before the ld.CIT(A) for all the above mentioned assessment years. The ld.CIT(A), on perusal of the submissions of the assessee, dismissed all the appeals of the assessee by confirming the order of the AO.

4. Aggrieved by the orders of the ld.CIT(A) the assessee is in appeal before us.

5. The ld.AR for the assessee submitted that the impugned orders have been passed without properly appreciating the nature of business carried out by the assessee. It was submitted that business model of the assessee is different from the traditional model of conducting leasing business by the lease finance companies. It was stated that the assessee's interest is only to deal in "residuary interest" in the movable assets that were earlier rented out by it. It was submitted that the concept of discounting charges is relevant only in case of borrowing money. However, the said concept is not applicable to the business model followed by the assessee. In order to appreciate these contentions, the ld.AR

pointed out the difference between the traditional business model of leasing and the model followed by the assessee as under:

(A) Traditional Model Of Lease Financing:

(i) Under traditional model of lease financing, the lessor would lease out the movable assets to its customers (lessee) and collect lease rentals. At the end of lease period, the lessee will have an option either to buy back the assets or return them to the lessor.

(ii) The lessor would be using its own funds as well as borrowed funds for purchasing assets meant for leasing. The lessor would borrow funds for its business on his own risk and responsibilities from financiers. Hence, he would be liable and responsible to repay the loans so borrowed along with interest. The lease rentals would constitute his income. The interest paid on borrowed funds would be his expenditure. The lessor will also claim depreciation on the assets so leased out. After deducting the interest, administrative expenses and depreciation on assets leased out, the profit or loss of the lessor would be determined. Under this model, the lessor will be paying interest on the loans taken by him and hence, he would be liable to deduct TDS thereon u/s 194A of the Act.

(B) Appellant's Business Model

The business model followed by the Appellant is explained below:

(i) The Appellant first identifies the customers who require any movable assets on rental basis.

(ii) The customer then identifies the suppliers. Then the cost of those movable assets are finalized.

(iii) Once the cost of movable assets were ascertained, then both the parties negotiate about the terms and conditions of renting, inter alia, the period of rental, amount of rentals payable during the renting period. A Master Rental Agreement (MRA) is entered between the Appellant and customer.

(iv) Simultaneously, the Appellant approaches either a bank or NBFC (financier) for generating funds by way of assigning/selling the "right to collect

rentals" as per MRA. The Appellant and the financier negotiate and finalize the "sale value" of the above said assignment/sale of receivables. Generally, the sale consideration is determined on the basis of various factors like period of rental, the amount of rentals receivable over the period, credit rating of the renter/customer, type of asset given on rent, time value/discounting rate etc.

(v) The Appellant would invest the excess of cost of assets over the funds received from the financier. For example, if the cost of asset is Rs.100/- and the financier agrees to buy the 'right to receive rent' (sale value) at Rs. 90/-, then the Appellant would invest the balance amount of Rs.10/-.

(vi) The Appellant would then purchase the assets using its own investment and amount received from the funder on assignment/sale of rent receivables. In the above example, own funds of Rs.10/- and the sale value of rent receivables amounting to Rs. 90/- together amounting to Rs. 100/- will be used to purchase the movable assets.

(vii) After entering into "Master Rental Agreement" with the customer, the assessee enters into another agreement with the financier titled as "Sale of Receivables agreement" for assigning/selling the "right to receive rent". It is pertinent to note that this assignment/sale is done "without recourse to the assessee company", meaning thereby, in case of failure on the part of the renter/customer to pay the rentals, the financier cannot ask the assessee to the defaulted amount. Accordingly, the financier has to pursue with renter/customer only, for recovery of defaulted amounts in accordance with the law.

(viii) All the financiers would always insist for giving collateral security to them at the time of funding. Since the assets given on rent are owned by the assessee, they are hypothecated to the financier as collateral security.

(ix) It is pertinent to mention that all the above said actions usually happen simultaneously.

(x) During the term of rental period, the rent shall be received by the financier, since the right to receive rentals has been assigned/sold to the financier on non-recourse basis.

(xi) However, the ownership rights over the assets would continue to remain with the assessee only. Hence, after the end of the rental period, the customer would return back the assets to the assessee, which would either be redeployed or sold or dealt with by the assessee in the manner it deems fit for realizing its residual interest in assets.

(C) Financial Implications For the Assessee:

(i) Since the rent receivable from the renters/customers as per the Master Rent Agreement have been sold/assigned to the financiers, the Appellant does not recognize the rentals as its income, since the business of the Appellant is dealing in residuary interest.

(ii) The funds received by the assessee from the financier on sale/assignment of rent receivables are on "non-recourse basis". Hence, it is a sale and not the case of borrowing funds. Hence, no liability is fastened upon the assessee to repay the amount so given by the financier. As stated earlier, the financier will recover the same from the collection of rentals from the customer and it cannot ask the Appellant to repay the amount, in case of default by the customer. Hence, the amount received from the financier on assigning/selling the rent receivables is reduced from the cost of assets, since there is no liability to repay the same. In effect, the amount received from the financiers is not loan, but it represents consideration received on sale of 'right to receive rentals' / receivables.

(iii) All these facts would show that the assessee has not borrowed any amount as loan, as presumed by the AO. Hence, the question of payment of interest also does not arise.

(iv) Extending the example given above:

(a) Cost of asset - Rs.100

(b) Future rentals Value & Residuary value - Rs.162 (150 (+) 12)

(c) Sale value of future rentals - Rs.90

(d) Investment in residuary interest- Rs. 10 (Rs.100 (-) Rs.90)

(e) Profit = Rs.2/- (Residuary value of Rs. 12 less investment in residuary interest)

As seen from the above, the assessee would only account for investment made by it (Rs.10/- in the example given above). It is disclosed as "residuary interest in the assets rented" in the asset side of Balance sheet. When the assets rented out, are taken back from the renter/customer, the realised value of the same will be treated as recovery of residuary interest. In the above example, if the realised value of asset is Rs.12/-, then the difference amount of Rs.2/- (Rs.12 (-) Rs.10/-) will constitute income in the hands of the assessee. This income is determined on estimated basis in the beginning itself and the same will be spread over the rental period on a standard methodology consistently followed by the assessee.

(v) Alternatively, the above profit of Rs.2/- can also be determined in the following manner based on the methodology mentioned in the Revenue Recognition Policy. In this regard, refer Annual report (Page No.7 of Factual Paper Book 1 for AY 2018-19), where the policy of revenue recognition is stated as follows:

> *"income from residuary interest in asset comprises of excess amounts collected by way of rentals from renters over the cost of the related assets rented net of discounting charges on sale of such future rentals to the funder".*

The profit of Rs. 2/- worked out earlier can also be arrived at as under:-

(a) Cost of asset	-	Rs.100
(b) Future rentals Value & Residuary value	-	Rs.162 (150 (+) 12)
(c) Sale value of future rentals	-	Rs.90
(d) Discounting charges	-	Rs. 60 (Rs.150 (-) Rs.90)
(e) Profit (162 (-) 100 (-) 60)	=	Rs.2/-

(vi) It is submitted that the assessee recognizes only the investment made by it in purchasing the residuary interest of asset and realized value on completion

of rental term. The income is computed accordingly. Since the right to receive rent is assigned/sold, the assessee does not recognize the rentals income and the amount received on assignment/sale is not treated as liability.

(vii) The assessee was incorporated on 13.06.2005 and this method of accounting has been consistently followed since the date of incorporation. Further, this method of accounting has been accepted by the AO in the scrutiny proceedings completed and order passed u/s.143(3) of the Act for the A.Y. 2020-21 and 2022-23.

(vii) The assessee has been applying and getting NIL/lower deduction certificates u/s.197 of the Act from the beginning. In A.Y.2008-09, there was detailed scrutiny made by the AO, wherein the business model of the assessee was explained. At that time, the name of the assessee was “One Point Contact Services Pvt Ltd”. After satisfying with the replies given by the assessee, the certificate was issued by the AO.

6. The ld.AR explained the case of the AO. Referring to the example given above, the ld.AR submitted that the amount funded by the financier is lesser than the aggregate amount of rent receivables. In the above example, the financier has funded Rs.90/- as against the aggregate amount of rent receivables of Rs.150/-. The difference between the two amounting to Rs.60/- has been treated by the AO as “discount charges”. According to the AO, the same is the interest charges paid by the assessee to the financier and the assessee is liable to deduct TDS thereon u/s.194A of the Act. Since there was failure on the part of the assessee to deduct TDS on the “discounting charges” in all these years, the AO has passed the impugned orders for A.Y.2018-19 to A.Y.2024-25 treating the assessee as “assessee in default” and raised tax demand u/s.201(1) and interest demand u/s.201(1A) of the Act.

7. The contention of the ld.AR is that there is fallacy in the facts noted down by the AO and it has resulted in taking erroneous view. Referring to the impugned order passed by the AO, the ld.AR submitted that the AO has not

correctly appreciated the business model of the assessee. It was submitted that the following observations made by the AO in the order would make this contention very clear. In the written submissions, the assessee has pointed out the alleged fallacies and also its response to the same. Hence, we feel it convenient to extract the same:

> **"(i) Para 3.3**: The assessee deductor obtains loan from funder (bank/NBFC) to procure the assets to be rented out to the renter (lessee). The receivables under the rental schedule are claimed to be hypothecated to funder (bank/NBFC) who pays consideration to the assessee-deductor against the right to receive future rentals.
> **Our Response**: The assessee does not borrow loans from funder (bank/NBFC). It assigns/sells the rent receivables to the funder and receives consideration for the same.
>
> **(ii) Para 5 @ Page 4** : The discounting charge is claimed under the head Direct Expense by the deductor in the financials.
> **Our Response**: This is totally against facts. The assessee has not claimed discounting charges as its expenditure in its Profit and Loss account or in the Income computation. As stated earlier, the assessee is dealing only in residuary interest in assets. Further, the right to receive interest is assigned/sold to the financiers. Hence, as per the accounting policy consistently followed, only the residuary interest is recorded. The discounting charges in not debited in the Statement of Profit and Loss but are merely passed as a memorandum accounting entry for internal purpose.
>
> **(iii) Para 6 at Page 4**: It is to be noted that, substance over form principle is misconstrued and based on a misplaced application of such principle, the deductor is justifying non-reporting of total turnover…
> **Para 7 at page 6**: ….Hence, as per substance over form principles, all inflows and outflows of moneys (notional or material) has to be recorded in accounts and declared in ITR.
>
> **Our Response**: This is the view of the AO that the assessee should account for all rentals also, which is against the surrounding facts and also the accounting policy followed by the assessee. In the answer to Question No.45 at page 4, the assessee has reiterated that the accounting policy followed by the assessee is in accordance with accounting standards. It is stated as under:
> *"The accounting framework under IFRS allows company to follow an accounting model if such accounting model represents the business of the company more appropriately than a specific accounting standard based on substance over form. In substance the actual transaction contemplated by the company is basically to benefit from the residual value of assets rented to the renter and hence the business of the company is to deal with the residuary interest in the assets rented. This is also as per Ind AS 01 standard."*
>
> Further, the AO himself has accepted the accounting policy followed by the assessee in the scrutiny assessments completed for AY 2020-21 on 13.09.2022 (page number 235 to 243 of Factual Paper Book 2) and for A.Y.2022-23 on 11.03.2024 (page number 244 to 250 of Factual Paper Book 2). The assessee has

been following same method of accounting, which is also permitted as per the Accounting Standards and which has also been accepted by the Auditors and other Regulatory authorities. Hence, in the present proceedings, the AO is taking different view on account of change of opinion only and is also against Principle of Consistency.

(iv) The AO has also conducted enquiries with financiers. He has noticed that the financiers have stated that their business is lending money and earning interest. Accordingly, the AO has taken the view that the 'discounting charges' is interest paid to the financiers, which attracts TDS u/s.194A of the Act.
Our Response: Only because the Financiers are treating the difference as interest would not automatically mean that the assessee is liable to deduct TDS u/s.194A of the Act. The most important question here is that in the given scheme of arrangement, who is being treated as a 'borrower' by the Financiers – the assessee or the customers / renters?

8. In this regard, the ld.AR drew our attention to the supplemental paper book(SPB) dated 15.06.2026 wherein the complete statements of representatives of two financiers, M/s.Incred Financial Services Limited and M/s.Cholamandalam Investment and Finance Company Limited, were submitted. Some of the important questions and replies are reproduced as under:

"Q.15 What is the guarantee that rental payments will be paid by the renter without any default?
Ans. Incred does its credit assessment on the renter through management meetings with the renter, financial and credit due diligence and collection of all documents for the credit assessment on the renter as per the applicable regulations. Thereafter the loan proposal is prepared, and it is sanctioned or rejected by the approving authority of Incred. And thereafter for approved cases we proceed for documentation and in case of a default Incred has a right to repossess the underlying assets and sell the assets and recover its dues. Secondly, we have right to sue the renter under NCLT or appropriate forums. These procedures are as good as procedures followed during the normal course of lending business, which is corroborated by the fact that our receipts from renter are also in EMI format…" (Pg. 346 of SPB)

"Q.19 You submitted that the deed of hypothecation is to create security for Incred in the transaction of purchasing receivables from OPC. How can in a purchase of an asset (receivables) there can be an underlying security, any loss incurred by a purchaser from purchasing such asset cannot be recovered from security over another asset (the hypothecated asset)?
Ans. ….We are lending to the borrower, in this case termed as renter in our agreements and whatever we receive from such borrower is payment towards the borrowed sum…" (Pg. 347 of SFPB)

"Q. 20 What is the accounting treatment for your transaction with renter?
Ans. 1. When we disburse the fund the loan account is debited in the name renter and the bank account is credited;

2. In the case of repayment by renters/borrowers, the payments are divided into interest and principal like a normal EMI payment. Principal portion is in connection with the debt serviced by the borrower and interest portion is the interest paid by the borrower." (Pg. 348 of SFPB)

"Q. 24 Having lent the money to OPC how do you claim you don't have a recourse to OPC in this transaction?
Ans. We have not lent to OPC, we have recourse only to the borrowers and the hypothecated assets. We have lent the money to borrowers only i.e., renters, the assets hypothecated here are owned by OPC in a third-party capacity." (Pg. 349 of SFPB)
[Underlined for Emphasis]

9. As may be seen from the above statements of the financiers, it is amply clear that they are treating the renters or the customers as the borrowers and not the assessee. The interest which is being shown as an income in the books of the financier is shown as received / receivable from the renters. The assessee goes out of the picture as soon as the rentals are purchased from it on a non-recourse basis. It is the rentals which are receivable from the customers which are treated as EMI payments and are split between principal and interest. Thus, this proves that the financiers are also treating the customers as the borrowers and not assessee. Since there is no lender-borrower relationship between the assessee and the financiers, there is no question of any interest payment.

10. Without prejudice to the above, the method of accounting followed by the financiers will not bind the assessee. The assessee has proved that it has assigned/sold the "right to receive rentals" to the financiers. If the financiers do not account it as purchase of the right and instead declare it as a case of financing, it may be a case of faulty accounting policy followed by the financiers or it may be their way of looking at the transactions. When the method of accounting followed by the assessee is in accordance with the Accounting Standards, the AO cannot hold the same as incorrect on the basis of the method followed by the funders, particularly in view of the fact that the financiers are part of "Sale of receivables" agreement executed between the assessee and the financiers.

> ***(v)*** *The hypothecation of assets by the Appellant with the financiers has been taken as a factor that supports the view taken by the AO. We have already clarified that the rentals are payable by the customer for usage of the assets only and hence the financiers usually insist for the hypothecation of those assets in order to have control over them during the period of rent. This is usual trade practice in the financial circles and this requirement cannot change the actual nature of transaction.*
>
> ***(vi)*** *Para (v) at Page 10: The AO has taken the view that there is indirect recourse available to the funder from the Appellant. In this regard, the AO is referring to the clause under the heading "Assignee (funder) rights". However, on perusal of the said clause would clearly show that the Appellant is required to take certain steps in order to facilitate the financier in the recovery of the defaulted amounts. This clause, no where stipulates that the Appellant should compensate the financier for the default committed by the customer.*
>
> *Since the funds received by the assessee is in respect of assignment/sale of right to receive rentals, the short fall amount, being the difference between the aggregate amount of rent receivables and the consideration cannot be considered as 'discount charges' as held by the AO."*

11. Accordingly, the ld.AR contended that the concept of 'discounting charges' is not applicable in the business model followed by the assessee.

12. With regard to the order passed by the Ld.CIT(A), the ld.AR submitted that the Ld.CIT(A) also did not appreciate the business model of the assessee correctly and hence, he dismissed the appeal of the assessee. It was submitted that the assessee had made an alternative submission before the ld.CIT(A) that the "discounting charge" mentioned by the AO in this case may be taken as akin to the "bill discounting charges", for example, a bill of Rs.100/- becomes payable after few months. If it is discounted at bank, it may pay Rs.95/, after deducting discounting charge of Rs.5/-. Thereafter, the bank would collect the bill amount of Rs.100/- from the drawer of the bill. The above bill discounting charge of Rs.5/- was not considered as "interest" by CBDT in its Circular No.65 dated September 2, 1971 and also in the following case laws:

(a) CIT vs. Cargill Global Trading P Ltd (2011)(335 ITR 94)(Delhi)

(b) CIT vs. MKJ Enterprises Ltd (2014)(50 taxmann.com 441)(Cal)

It was submitted that the assessee had raised the following alternative contentions also before Ld.CIT(A):

(a) The liability u/s.194A of the Act is fastened upon the person responsible for paying interest to the financiers. The assessee herein is not legally and commercially liable to pay any interest. Hence section 194A of the Act will not apply to the assessee.

(b) TDS liability would arise only when the interest is paid or credited. The assessee herein does not pay or credit any interest.

However, the Ld.CIT(A) has rejected all the alternative arguments also.

13. The Ld.AR submitted that the assessee is dealing in residuary interest in movable assets, and this model of business has been recognized by the Mumbai bench of Tribunal in the case of DCIT vs. M/s.Connect Residuary Pvt Ltd (ITA No.6451/Mum/2019 & CO No.29/Mum/2020 dated 26.06.2023). As per this model, the assessee would assign/sell the right to receive future rentals to a financier on non-recourse basis. Since the right of the assessee to receive future rentals has been assigned/sold, the renter/customer would remit the rentals to the financier only. Since the assignment/sale is on non-recourse basis, the financier cannot ask the assessee for compensation for the default, if any, committed by the renter/customer. This legal position has been affirmed in the following cases:

(a) OPC Asset Solutions Private Limited v. Hero Fincorp Limited [CS (COMM) 691/2023 and I.A.19211/2023] (Del. HC).
(b) Rabo India finance Limited vs. OPC Asset Solutions Pvt Ltd & Another (Summary Suit No.700 of 2011)(Bom HC) dated 04.01.2017.

Accordingly, the ld.AR submitted that the consideration received on sale / assignment of right to receive future rentals cannot be taken as borrowing, since there is no liability to repay the same to the financier.

14. Referring to section 36(1)(iii) and section 2(28A) of the Act, the ld.AR submitted that the definition of interest given in section 2(28A) makes it very clear that the same is payable in respect of “any moneys borrowed” or “debt incurred”. Hence borrowing of money or incurring of debt is the primary condition to bring any payment within the meaning of interest defined in section

2(28A) of the Act. Consequently, if there is no borrowing, the question of interest expenditure will not arise at all. With regard to the view of the AO that the discount charges is in the nature of interest, the Ld.AR submitted that the said view is correct only if there is borrowing of money coupled with a liability to repay the same. In this regard, the Ld.AR placed his reliance on various case laws. The Ld.AR further referred to the statements taken from financiers, wherein they have clearly stated that they consider only customers/renters as “borrowers” and not the assessee. In one of the questions, it is also stated that the financiers are purchasing the right to receive rentals from the assessee and they have right to sue the customer/renter only for recovery of dues. Accordingly, the ld.AR contended that the transactions carried on by the assessee will fall outside the scope of section 36(1)(iii), section 2(28A) and section 194A of the Act. In support of these contentions, the assessee has also given certain illustrations, which we have extracted in our discussions in the subsequent paragraphs.

15. The Ld.DR, however, supported the orders passed by the tax authorities. She submitted that the difference between aggregate amount of rent receivables and the amount actually given by the financier represents “discounting charge” and it is nothing but “interest” charged on the funds given by the financier to the assessee. She submitted that the AO has verified this fact by conducting enquiries with some of the NBFCs also and they have said that they have accounted the transactions as normal loan transactions. Further, even though it is stated that the Right to receive rent has been assigned/sold and non-recourse clause is available, yet it is seen that the assessee is required to take certain steps whenever the customer commits default in payment of rent to the financier. Further, the underlying assets are hypothecated to the financier by the assessee itself, since the assessee continues to be the owner of the assets. All these facts would show that the financiers are having indirect recourse to the assessee in case of defaults. She further submitted that, in substance, the rent payments are made to the financier on behalf of the assessee only. It is also pertinent to note that the ownership of asset is retained

by the assessee and it never passes to the financier. All these facts would show that the transactions entered by the assessee with the financiers are, in substance, loan transactions only. Hence, the discount charges, being the difference between the aggregate amount of rent receivables and the amount paid by the financiers is in the nature of interest compensation only. Accordingly, the Ld.DR submitted that the discounting charges have been rightly treated by the tax authorities as interest. Since the assessee has failed to deduct TDS u/s.194A of the Act, the tax demand and interest demand has been rightly raised upon the assessee u/s.201(1) and 201(1A) of the Act in all these years, which have been confirmed by the ld.CIT(A).

16. In the rejoinder, the Ld.AR submitted that neither the statements given by NBFCs nor the accounting treatment followed by them are binding upon the assessee. He submitted that the financiers have stated in their statements they have clearly stated that they consider only customers/renters as “borrowers” and not the assessee. In one of the questions, it is also stated that the financiers are purchasing the right to receive rentals from the assessee and they have right to sue the customer/renter only for recovery of dues. Hence, they are treating the transactions with the customers/renters as loan transactions, while the transactions entered with the assessee are treated as ‘purchase of right to receive rentals’. All these aspects make it clear that the assessee has not borrowed funds from the financiers. Hence, the accounting treatment given by the financiers may be justified from their point of view, but the same will not alter legal nature of transactions entered between the assessee and financiers. In any case, the accounting treatment followed by the financiers will not be binding upon the assessee. He submitted that the assessee has been following the very same method of accounting since its inception from 13.06.2005. The accounting system has been accepted in the scrutiny assessments conducted in earlier years. The fact remains that the right to receive future rentals has been assigned / sold on non-recourse basis to the financiers by entering into proper agreements with them. Those agreements clearly state that the right to receive

future rentals has been assigned/sold. Since it is a case of assignment/sale, the consideration received by the assessee cannot be treated as borrowing, as there is no liability to repay the same. The assessee continues to be the owner of the asset. Hence sale/assignment of rent receivables to the financier by the assessee and the collection of rentals from the customers/renters by the financiers are two different transactions and both cannot be combined. Other terms and conditions relating to hypothecation of assets, assistance to be given to the financier in case of default are peripheral arrangements, i.e., they cannot modify the core features of assignment/sale on non-recourse basis.

17. We have heard rival contentions perused the material available on record and gone through the orders of the authorities along with the paper books filed and case laws relied upon. The assessee herein has been treated as “assessee in default” as per section 201(1) of the Act, since the assessee, according to tax authorities, has failed to deduct tax at source from the “discounting charges” borne by the assessee, which is in the nature of interest. We noticed earlier that the assessee is assigning/selling the future rent receivables to a financier, who pays a discounted value to the assessee as consideration for such assignment/sale. In the example cited by the ld.AR in his submissions, the future rent receivable was Rs.150/- for which the financier has paid Rs.90/-. The difference between the above said two figures’ amounts to Rs.60/- and it constitutes the “discount charges”, referred by the AO. According to tax authorities, this discount charge is in the nature of interest only and hence the assessee should have deducted tax at source from it u/s.194A of the Act.

18. According to the assessee, it’s business model is different from the traditional model of lease financing. It was explained that, under the traditional model -

(a) the lessor company would borrow money from banks & financial institutions on its own risk and responsibilities.
(b) Hence, the liability to repay the said loan along with interest would be upon the lessor company only.

(c) This liability shall not cease, even if the lessee commits default in paying the lease instalments, i.e., the risks associated with the default is also borne by the lessor only and hence, the lessor has to take steps for recovery of the defaulted amount.
(d) The bank/financial institution would pursue the lessor only for recovery of amount lent by them in accordance with law.
(e) The lessor will be paying interest on the loans so borrowed and hence the provisions of sec.194A would be attracted on such interest payments.

However, we notice that the business model followed by the assessee differs from the above said traditional model in many aspects. The business model followed by the assessee was explained to us as under:

(a) The assessee is dealing with 'residuary interest' in the assets given on rent, i.e., it is not interested in earning rental income. It only creates the right to receive rentals.
(b) The right to receive rentals is assigned/sold to a financier on without recourse basis. Hence, the financier cannot ask the assessee to pay the amount, in case of default, if any, committed by the renter/customer in payment of rentals, as the consideration received from financiers is not the loan/borrowing taken from them.
(c) In case of default committed by the renter/customer, the financier can recover it from the renter/customer only by following legal remedies.
(d) The amount received by the assessee from the financiers cannot be considered as money borrowed. It is only the consideration received on sale/assignment of right to receive future rental amounts.
(e) The concept of "discounting charge" will apply only in case of borrowing of money. When sale consideration is received, the shortfall in the amount cannot be considered as "discounting charges' akin to interest, in the absence of any borrowing of money. Accordingly, it was submitted that the view of the AO is not correct.
(f) The question of considering the discounting charges as akin to interest expenses will arise only, if the borrower is liable to repay the amount so borrowed from the financier. In the facts of the present case, the concept of "discounting charges' is not at all relevant.

19. We notice that the business model of the assessee is a unique model that has been developed in commercial circles. We find that the said business model has been considered by the Tribunal of Mumbai bench in the case of DCIT v. M/s.Connect Residuary Pvt Ltd (ITA No.6451/Mum/2019 & CO No.29/Mum/2020 dated 26.06.2023). In the above said case, the AO assessed the rental income of the equipments given on rent in the hands of the above

said assessee, on the basis of TDS certificates reported in Form 26AS, since the same was not offered to tax by the above assessee. The above assessee had explained that the right to receive rental income has been assigned/sold by it to a financier. Understanding the fact that the above assessee is dealing only in residuary interest and it is not entitled to receive rental income after its assignment/sale, the ld.CIT(A) deleted the addition made by the AO. In the appeal filed by the revenue, the Tribunal confirmed the order of Ld.CIT(A) with the following observations, wherein this business model has also been explained:

> *"09. We have carefully considered the rival contentions and perused the orders of the lower authorities. To reach at a conclusion, whether the assessee has offered correct income or not, it is necessary to understand business model of the assessee. Any customer who would like to have certain equipments will contact the assessee for purchase of those assets. Based on the requirement, lease of assets is entered into between Customer and assessee by a Master Rental Agreement fixing rental schedules. Assessee solicits the financier who can finance the purchase of the assets to be rented out. Such financier subsequently pays to the assessee and in turn assessee assigns the lease rentals receivable from the customer to the financier. From the financier, assessee receives discounted value of lease rentals. Based on this, assessee pays purchase price to the vendor from whom the equipments/assets are purchased. Customer directly makes payment of lease rentals to the Financier because the lease rentals receivable by the assessee are already assigned to the financer. Naturally when lease rents are paid, tax is required to be deducted by the customer. If lease rent is paid after deducting tax at source, assessee is supposed to reimburse to the extent of tax deduction at source to the financer. The customer issues tax deduction at source certificate in the name of the assessee because master rent agreement was between assessee and the customer. On completion of the tenure of the lease, assets are returned. Those assets are sold at the end of the tenure to the respective purchaser of those assets. The assessee offers investment in unguaranteed residuary account upfront. Therefore naturally, the income of the assessee is not the rental income but the income earned in the business of acquiring and dealing in unguaranteed residuary interest in assets rented to the customers. Thus, the income offered by the assessee is such income and not the rental income appearing in form number 26AS. This AY is the only year in which LD AO has taken such a view and made addition. On Similar facts in earlier years and subsequent years, the LD AO has not made such addition. Perhaps for this year the addition has been made on account of failure on the part of him to understand the business model of the assessee. Therefore, we confirm the order of the LD CIT (A) deleting the addition for this year. In view of this the Appeal of the LD AO is dismissed."*

20. In this decision, the business model of dealing in 'residuary interest' has been explained. The Tribunal has appreciated that the right to receive rentals has been assigned in favour of financiers. Hence, it was held that the rentals

shown in Form 26AS cannot be assessed in the hands of the assessee before the Mumbai bench of Tribunal.

21. Considering the peculiar features of the business model of the assessee, we shall examine whether, in the facts and circumstances of the case, the "discounting charges' is relevant and if it is relevant, whether it can be considered as interest expenditure within the meaning of section 194A of the Act?

22. We shall first advert to the relevant provisions of the Income tax Act. i.e. Section 36(1)(iii) of the Act allows deduction of

> *"any amount of the interest paid in respect of capital borrowed for the purposes of business or profession".*

23. Section 194A of the Act imposes liability to deduct tax at source from the interest payments upon the payer of interest. It provides an obligation upon the payer of interest to deduct tax at source from the said interest payments. As per this section, any person who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities shall, at the time of credit of such income to the account of the payee or at the time of payment thereof, be required to deduct tax at source at the prescribed rates. Both sec. 36(1)(iii) and sec. 194A have application only in respect of 'interest' payments. The term "interest" is defined in sec.2(28A) of Income tax Act as under:-

> *"28A. "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised."*

25. Thus, the definition of interest necessarily requires that the same shall be paid in respect of any 'moneys borrowed' or 'debt incurred'. Hence, there must exist a relationship of borrower and lender between the parties for qualifying a sum to be 'interest' as defined u/s. 2(28A) of the Act. Now, the words 'borrowed'

or 'debt incurred' are not defined anywhere in the Act. Accordingly, one may have to refer to its ordinary or popular meaning as may be generally understood (See Commissioner of Gift-tax v. N.S. Getti Chettiar reported in 82 ITR 599). As per the *New World Dictionary,* the word 'borrow' means "*to take or receive (something) with the understanding that one will return it or an equivalent."*

25. The Hon'ble Calcutta High Court in the case of CEPT v. Bhartia Electric Steel Co. Ltd. (1954) (25 ITR 192) (Cal.) has held that "for a loan there has to be a positive act of lending money." The Hon'ble Supreme Court in the case of CIT v. Bazpur Co-Operative Sugar Factory Ltd. (1989) (177 ITR 469), while considering the meaning of the words "borrowed money", held that the words should not be given a strained meaning and that it should be considered whether in ordinary commercial usage the relationship was that of a borrower and a lender and that the transactions were loan transactions.

26. Another issue that arose for consideration was whether the interest paid to the Northern Railway and the Punjab Government in respect of the capital borrowed for the purposes of the assessee's business was allowable as a deduction u/s.36(1)(iii) of the Act. While examining the said issue, the scope and meaning of the expression "borrowing" occurring in the provision came to be explained by the Hon'ble Court in the following terms:

> *"The word "borrow" has not been defined in the statute and, therefore, its dictionary meaning has to be looked up. The meaning of the word "borrow" as given in the Shorter Oxford Dictionary (3rdedn.) is "to take (a thing) on security given for its safe return. To take a thing on credit on the understanding of returning it or an "equivalent". Reference in this respect may also be made to CEPT v. Bhartia Electric Steel Co. Ltd. [1954] 25 ITR 192 (Cal). In this also, the question was whether it was "money had and received"; or "borrowed money". It was held that there has to be a positive act of lending coupled with acceptance by the other side of the money, as a loan. Thus, it is clear that an element of refund or repayment is inherent in the concept of borrowing. There is no provision in the Act which contemplates the repayment of the capital so provided under section 23 of the Act.*
>
> *….Thus, the distinction has been made in the Act itself between the "capital provided" under section 23 and the "capital borrowed" under section 26. It is further clear from the provisions of section 39(2), which reads:*

….There is no obligation to refund the capital provided by the Governments. In this view of the matter, the "capital provided" under section 23 of the Act by the two Governments, cannot be said to be "capital borrowed" as contemplated under section 36(1)(iii) of the Income-tax Act."
[Underlined for emphasis]

27. This legal position was again explained by the Mumbai bench of Tribunal in the case of State Bank of India vs. DCIT (TDS)(2024)(163 taxmann.com 266)(Mumbai). In this case, the SBI had purchased on assignment basis a portion of loans given by NBFCs. The borrowers were paying interest, which was getting deposited in 'Collection and Payout Account', an escrow account. Ultimately, this interest was distributed amongst the NBFCs and SBI as per the tripartite agreement. The TDS officer took the view that the SBI should have deducted TDS on the interest distributed to NBFCs. The Tribunal held as under:

"……The assessee has only purchased a part of the loan by making upfront payment and allowing the originating NBFCs to retain part interest on such loan paid by the borrowers. There is no material available on record to show that the assessee (SBI) borrowed any funds or incurred any debt from the NBFC. Such being the facts, the question of payment or crediting of interest by the assessee in favour of NBFC does not arise. Therefore, in the absence of any funds borrowed or debt incurred by the assessee from the NBFC, the part interest allowed to be retained back with the originating NBFC cannot be said to be interest within the meaning of sec. 2(28A). Further, it is pertinent to note that under section 194A, the payment must be in the nature of interest in order to make the payer responsible for deducting tax at the time of payment or credit of such income. Therefore, though the payment by the borrower of the loan, in the instant case, is in the nature of interest, however, when the same is allowed to be retained with the originating NBFC by the assessee under the tripartite agreement, the nature of the same is converted to a consideration for the purchase of 90 per cent of the pool of assets. The nature of income in the hands of the recipient and the nature of expenditure of said sum by that person may not always be the same. Therefore, it is not necessary that what is received as interest is also interest when paid, particularly in the absence of any money borrowed or debt incurred. Accordingly, there is no obligation on the assessee to deduct tax at source under section 194A. Thus, levy of tax under section 201(1) and levy of interest under section201(1A) for non-deduction of TDS under section 194A is not sustainable…"

28. Thus, the definition of the term "interest" and the various case laws referred above would make it clear that a payment can be considered as "interest" only if it is payable *in respect of any moneys borrowed or debt incurred*. Further, in case of borrowing, there will be an obligation to repay the same. Consequently,

if a transaction does not result in borrowing of moneys or incurring of debt attached with necessary liability to repay those moneys/debt, then there will not be any liability to pay any amount as "interest". In that case, those transactions will fall outside the scope of sec.36(1)(iii), sec.2(28A) and sec.194A of the Act. Hence, in the facts of the present case, it is required to be examined whether the assessee herein has borrowed any money or not.

29. In the instant case, it is explained that the future rental receivables have been assigned/sold to the financier by entering into an agreement titled as "Sale of Receivables Agreement". The following recital therein is relevant here:

> *"The company and financier have agreed that the Company shall, on a non-recourse to the Company basis, offers to sell receivables under the said Rental Agreement and provide the Collateral securities to the Financier as per the Sanction letter of the Financier, duly accepted by the company…."*

30. This clause makes it clear that the assessee is assigning/selling the rent receivables to the Financier on "non-recourse basis", i.e., when any renter / customer commits default in making payment of rentals, the financier can take steps to recover the same from the renter/customer only and it cannot ask the Company (assessee herein) for payment of defaulted amount. This legal position has been explained in assessee's own cases, i.e., cases in which the assessee herein is one of the parties. They are summarized in brief below:

<u>(a) OPC Asset Solutions Private Limited v. Hero Fincorp Limited [CS (COMM) 691/2023 and I.A. 19211/2023] (Del. HC).</u>

31. The assessee herein had given certain assets on rent to Talwalkars Health Clubs Limited ("**THL**"). It assigned certain rental receivables from **THL** to Hero Fincorp Ltd **(HFL)** on a "non-recourse basis". THL defaulted in payment of rentals assigned to HFL. The HFL reported the defaulted amount in National E-Governance Services Limited (**NeSL**) portal and also shown the assessee as a "Debtor" under "type of Information" as if it was assessee's default. Hence,

the assessee herein approached HFL with a request to remove the above reporting from the NeSL portal. Since HFL did not remove the reporting in NeSL portal, the assessee herein filed a petition before the Hon'ble Delhi High Court seeking relief, as HFL had wrongfully classified the assessee as the "Debtor/Borrower" and continued to report the assessee for payment default by its Customer in the NeSL portal. Before the Hon'ble High Court of Delhi, the defendant HFL conceded that it does not have claim over the assessee. Accordingly, the Hon'ble Delhi High Court was passed the following order on 18.12.2023:

> *"2. Today, the learned counsel, on instructions, submits that the answering defendant has no monetary claims against the plaintiff and any communication written to National E-Governance Services Limited whereby the plaintiff was classified as a debtor would be withdrawn within four weeks from today. He further clarifies that the plaintiff is neither a borrower nor a debtor and if any classification of plaintiff is done as a non-performing asset, the same would be withdrawn."*

Accordingly, the writ petition of the assessee was allowed.

(b) Rabo India finance Limited vs. OPC Asset Solutions Pvt Ltd & Another (Summary Suit No.700 of 2011)(Bom HC) dated January 4, 2017.

The assessee had assigned/sold rent receivables from M/s.Subhiksha Trading Services Ltd to M/s Rabo India Finance Ltd. However, M/s.Subhiksha defaulted in making rent payments and hence M/s.Rabo India Finance Ltd (Plaintiff). It then asked the assessee herein (Defendant No.1) to locate the goods, but the assessee could not locate the goods since M/s.Subhiksha (Defendant No.2) did not co-operate. Hence, M/s.Rabo India Finance Ltd (Plaintiff) filed suit against the assessee (Defendant No.1) alleging that the assessee was negligent and hence it is liable to refund entire consideration to the plaintiff. However, Hon'ble Bombay High Court dismissed the petition of Plaintiff with the following observations:

> *"…50. The purchase by the Plaintiff of the receivables was on a no recourse basis arising under the rental schedules. The Plaintiff is a huge financial institution. I cannot believe and or accept an international financial organisation like the plaintiff would be so naive as projected by the counsel. The Plaintiff, I am sure, would have done due diligence before it entered into the agreement with Defendant No.1. In*

any event, the Plaintiff would have done due diligence before it released the large amount in excess of Rs.19 crores to Defendant No.1 more so when it was on 'no recourse' basis. The amount also was released in three tranches. The Plaintiff knew exactly what it was getting into when it entered into the agreement and when it released the Rs.19 crores plus. That is why not once until the Advocates' letter dated 31st October 2009 (Exh.P-97) did the Plaintiff even ask Defendant No.1 to return the money. Therefore, I have no hesitation to observe that the Plaintiff entering into the agreement with Defendant No.1 was based entirely on the Plaintiff's own assessment and satisfaction of the merits of the renting transactions and the credit worthiness and financial wherewithal of Defendant No.2. The Defendant No.1 cannot be accused of being negligent or having committed any default. Defendant No.1 is being unnecessarily dragged in these proceedings that concern issues arising between the Defendant No.2 and the Plaintiff….

….

53. …having accepted payment from Defendant No.2 till November 2008 in respect of the rent receivables did not amount to waiver of the rights of the Plaintiff to pursue the alleged claim against the Defendant No.1 cannot be sustained. This is because the Plaintiff having accepted the assignment on no recourse basis from the Defendant No.1 always understood, believed and acted in furtherance thereof. The Plaintiff always looked towards the Defendant No.2 in respect of the location of the goods and also for recovery of its alleged claim. The Plaintiff always corresponded with the Defendant No.2 in respect of the goods and the rent receivables. The Plaintiff never called upon the Defendant No.1 when the Defendant No.2 defaulted in payment obligations of the rent receivables post November 2008 to take steps on their behalf. The Plaintiff never raised any objection and / or claim against the Defendant No.1 till its notice dated 31st October 2009…

…

55.In view of the above, the issues are answered as under:-

….

4 Whether the right, title and interest of Defendant No. 1 stood assigned to the Plaintiff under the deeds of assignment?	*Yes.*
5 Whether the Plaintiff is entitled to receive any amount under the Master Rental Agreement?	*Yes – from Defendant No. 2 only, and NOT from Defendant No. 1.*
6 What relief, if any, is the Plaintiff entitled to?	*None against Defendant No.1. Ex-parte decree against Defendant No. 2 already passed on 9th January 2014.*

32. Above said case laws clarify the legal position in the cases of assignment/sale of rent receivables, i.e., the assignor/seller cannot be asked to compensate the loss arising to the financier on account of default committed by

the renter/customer in payment of rental amounts. It would mean that the consideration received by the assessee from the financier on assignment/sale of rent receivables cannot be termed as borrowing, since in the case of borrowing, there is a liability to repay the loans along with applicable interest. This feature is absent in the business model of the assessee, wherein

(a) the assessee assigns/sells the right to receive rentals to the financier and receive consideration for the same.
(b) In view of the non-recourse clause, the financiers cannot ask the assessee to pay the defaulted amount, if the customers commit default in payment of rentals. Thus, there is no liability to repay the amount received by the assessee from the financiers.

Hence, the funds received from the financier, in the facts of the present case, represent the consideration received for assignment/sale of rent receivables.

33. We find that the AO has conducted enquiries with two financiers viz., M/s.Cholamandalam Investment and Finance Co Ltd and M/s.Incred Financial Services Ltd. The AO has also recorded statements from them. The Ld.AR referred relevant portion of the statements taken from the financiers, wherein they have clearly stated that the borrowers are only customers/renters only and not the assessee. They have also clarified that the recourse is available from the customers/renters only and from the assessee. In one of the questions, it has been mentioned that the transaction with the assessee is only purchase of rent receivables. Thus, the stand of the assessee is getting vindicated from the statements given by the financiers also. Hence, we also agree with the contentions of the assessee that, in the facts and circumstances of the case, it cannot be said that the transactions of sale/assignment of rent receivables is a case of borrowing/lending of money. In the absence of any borrowing, the question of payment of interest also does not arise. In fact, the assessee does not pay any interest to the financier. Hence, we hold that these transactions do not fit within the definition of the term ‘interest’ given in sec. 2(28A) of the Act.

34. The AO has, however, held that the discounting charges (difference between aggregate amount of rent receivables and the amount paid to the

assessee for assignment/sale) as interest expenses. The said discount arises on account of time value of money. In accounting parlance, when a person could earn interest @ 10%, then Rs.100/- invested today will have maturity value of Rs.110/- after expiry of one year, meaning, the amount of Rs.110/- after expiry of one year will be equal to Rs.100/- today. So, when someone wants to discount a bill which has maturity value of Rs.110/- after expiry of one year, he will get a sum of Rs.100/- only today. The difference of Rs.10/- represents is considered as discounting charges. However, whether the discounting charges shall constitute interest or not will depend upon the facts of each case. The assessee has explained this legal position with certain illustrations given below:

(a) For example, a company may issue deep discount bonds having face value of say Rs.800/-, which will mature at Rs.1000/- after certain period and hence there is a liability to repay the borrowed amount by way of deep discount bonds by the company. Since, it is case of borrowing by issuing deep discount bonds, the courts have held that the discount amount of Rs.200/- shall constitute “interest”.

(b) Another example is the case of borrowing money by discounting the “Rent receivables”. Suppose Mr.X has rented a building to a reputed Corporate company on a monthly rent of Rs. 5.00 lakhs for a period of three years. Mr.X is expected to receive Rs.1.80 crores over the three years period. In this case, Mr.X can borrow money from any bank/NBFC by discounting the rent receivable by it with the direction to the tenant to pay the rent directly to the bank/NBFC. The rental amount will cover the repayment of principal and also applicable interest. In this case, there will not be any non-recourse clause and hence, if the tenant commits default in paying rent, Mr.X will be liable to pay the money. In this case, the “discount charges” should be treated as interest, since Mr.X has actually borrowed money.

(c) On the contrary, when an usance bill/hundi is discounted with the bank, the discount amount is not considered as interest. In this regard, we may refer to the Circular No.65 dated 02-09-1971, which has clarified this legal position as under:

> *"I am directed to invite a reference to the Board's Circular No. 48 [F. No. 275/195/70-ITJ], dated 7-11-1970 [Clarification 2]. The Board has been requested to reconsider the views given in that circular. After a careful examination of the legal position the Board is of the view that to the following extent the earlier views need a modification. Where the supplier of goods makes over the usance bill/hundi to his bank which discounts the same and credits the net amount to the supplier's account straightaway without waiting for realisation of the bill on due date, the property in the usance bill/hundi passes on to the bank and the eventual collection on due date is a receipt by the bank on its own behalf and not on behalf of the supplier. For such cases of immediate discounting the net payment made by the bank to the supplier is in the nature of a price paid for the bill. Such a payment cannot technically be held as including interest and therefore no tax need be deducted at source from such payments by the bank. Further, the buyer need not deduct any tax from the payment made by him on due date to the bank in respect of such discounted bill inasmuch as these payments to a bank or a banking cooperative society, conforming to the exemption granted by section 194A(3)(iii)(a)."*
> [Underlined for Emphasis]

Very same view has been expressed in the following cases:-
(a) CIT vs. Cargill Global Trading P Ltd (2011)(335 ITR 94)(Delhi)
(b) CIT vs. MKJ Enterprises Ltd (2014)(50 taxmann.com 441)(Cal)

35. From the foregoing discussions and in our considered view, the AO has erroneously applied the concept of "discounting charges" to the facts of the present case. First of all, the concept of equating the discounting charges to interest payment will be applicable only if the person has borrowed money or incurred debt. In the instant case, the amount given by the financiers is a negotiated price on non-recourse basis for assigning/selling the right to receive rentals in favour of the financiers. The same will always be lesser than the aggregate amount of rent receivable in future, because of time value of money and gains that will be considered by the financier. Merely because, it is lesser than the aggregate amount of future rent receivables, it cannot be said that the consideration received for assignment/sale of right to receive rentals is in the nature of loan taken from the financiers for the detailed reasons explained earlier. There should not be any doubt that the true nature of transactions has to be determined duly considering all surrounding factors. In the instant case, there is no obligation to repay the sums so received from the financier nor could the financier have recourse to the assessee. Hence, the difference between the

aggregate amount of rent receivables and the consideration for assignment / sale, being negotiated price for assigning/selling the right to receive rentals, cannot be considered as “discount charges” at all in the facts of the present case. In the absence of any borrowing, the question of payment of interest also will not arise. Accordingly, we are of the view that the tax authorities are not correct in holding that the short fall amount is discounting charges and the same represents interest expense.

36. The AO has referred to the accounting treatment given by the financiers. There is no dispute that the financiers are parties to the agreement titled as “Sale of Receivables agreement”, meaning thereby, the financiers have only purchased the right to receive rentals from the assessee. Further, this legal position has also been clarified by them in the statements recorded from the financiers. Further, they have clearly stated that the borrowers are only customers / renters and not the assessee. Hence, there is merit in the contentions of the assessee that the true nature of transactions is the sale / assignment of right to receive rentals. In any case, the accounting treatment given by the financiers is not relevant in the hands of the assessee. Further, under the Income tax Act, correct income is required to be determined by the AO in accordance with the provisions of the Act and it is a settled position that entries in the books of account are not determinative or conclusive. In this regard, reliance is placed upon the following judicial pronouncements:

a. Taparia Tools Ltd. v. JCIT (2015) (55 taxmann.com 361) (SC)(Refer LPB from Pg. 26 to Pg. 34);
b. United Commercial Bank v. CIT (1999) (240 ITR 355) (SC);
c. Sutlej Cotton Mills Ltd. v. CIT (1979) (116 ITR 1) (SC);
d. Tuticorin Alkali Chemicals & Fertilizers Ltd. v. CIT (1977) (227 ITR 172) (SC);
e. Kedarnath Jute Mfg. Co. v. CIT (1971) (82 ITR 363) (SC)

37. In view of the above, even if financier has treated the transaction as a case of loan and accounted for interest income, the same will not alter the true nature of transactions. The discussions made above and the agreements entered by the assessee with the financiers would show that the assessee has

assigned / sold the right to receive rentals to the financiers. Hence, it cannot be said that the accounting treatment given by the financiers will not be a determinative factor.

38. Accordingly, we hold that, in the facts and circumstances of the case discussed elaborately above, the assessee has not borrowed any money from the financiers within the meaning of sec.2(28A) and sec. 36(1)(iii) of the Act. The consideration received by the assessee from the financiers is a negotiated price in connection with assignment/sale of rent receivables. Since there is no liability to repay the same, the said receipts cannot be considered as borrowings at all. Accordingly, the difference between the aggregate amount of rent receivables and the actual consideration paid cannot be considered as discounting charges akin to interest charges as understood by the AO, since the concept of discounting charges and treating it as interest will apply only in the case of borrowings. In the facts of the present case, the said concept will not apply. The assessee cannot be said to have paid any interest within the meaning of sec.2(28A) of the Act. More importantly, the assessee has not claimed any interest expenditure as deduction in computing total income under the Act out of the sale/assignment of rent receivables. Hence, we are of the view that the AO has wrongly applied the said concept to the facts of the present case and hence his orders passed for the years under consideration u/s.201 of the Act cannot be sustained. For the same reasons, the orders passed by Ld.CIT(A) for the assessment years 2018-19 to 2024-25 cannot also be sustained.

39. The assessee has raised many alternative contentions. Since we have decided the main grounds in favour of the assessee, we do not prefer to adjudicate the alternative contentions and accordingly, we leave them open.

40. In the result, all the seven appeals for the A.Y. 2018-19 to 2024-25 of the assessee are allowed.

41. Since all the aforesaid appeals of the assessee have been adjudicated and disposed of in terms of our findings recorded hereinabove, the seven stay applications pertaining to the Assessment Years 2018-19 to 2024-25 have become infructuous and are, accordingly, dismissed.

Order pronounced in the court on 06th July, 2026 at Chennai.

Sd/-	Sd/-
(एस एस विश्वनेत्र रवि)	**(एस. आर. रघुनाथा)**
(S.S. VISWANETHRA RAVI)	**(S. R. RAGHUNATHA)**
न्यायिक सदस्य/**Judicial Member**	लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 06th July, 2026.

Devadas

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF

DEVADAS GOPALANACHARY

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Date: 2026.07.07 18:40:05 +05'30'