

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'I', NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA Nos. 2383 & 2384/Del/2018

Assessment Years: 2012-13 & 2013-14

Deputy Commissioner of Income Tax Circle-13(2), C.R. Building, I.P. Estate, New Delhi- 110 002	Vs	Jindal Saw Ltd. (Formerly known as Saw Pipes Ltd.) 28, Najafgarh Road, Shivaji Marg, Ramesh Nagar, New Delhi- 110015
(APPELLANT)		(RESPONDENT)
PAN No. AABCS7280C		

**ITA No. 2747/Del/2018 & ITA No. 2748/Del/2018
Assessment Year: 2012-13 & 2013-14**

**ITA No. 463/Del/2019
Assessment Year: 2013-14**

Jindal Saw Ltd. (Formerly known as Saw Pipes Ltd.) 28, Najafgarh Road, Shivaji Marg, Ramesh Nagar, New Delhi-110015	Vs	Deputy Commissioner of Income Tax Circle-13(2), C.R. Building, I.P. Estate, New Delhi- 110 002
(APPELLANT)		(RESPONDENT)
PAN No. AABCS7280C		

**Assessee by: Sh. Rohit Jain, Adv.
Sh. Saksham Singhal, Adv.
Sh. Tavish Verma, Adv.**

Revenue by : Sh. Shankar Gupta, Sr. DR

Date of Hearing: 25.05.2026	Date of Pronouncement: 13.07.2026
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ORDER

The instant batch of five cases involves the single assessee herein namely, M/s Jindal Saw Limited. The Revenue's twin appeals ITA No. 2383 & 2384/ Del/2018 as well as the assessee's three cross appeals ITA Nos. 2747/Del/2018, 2748/Del/2018 with 463/Del/2019; for assessment year 2012-13 and 2013-14, arise against the CIT(A)'s twin separate orders, both dated 31.01.2018, passed in case nos. 07/2017-18/CIT(A)-44 & 09/2017-18/CIT(A)-44, assessment year-wise, respectively, involving proceedings u/s 143(3) r.w.s. 144C of the Income Tax Act, 1961; hereinafter referred to as, "the Act".

Heard both the parties at length. Case files perused.

2. It transpires at the outset, with the able assistance coming from both the parties that the Revenue's twin appeals herein ITA No. 2383 & 2384/Del/2018 raise its identical twin substantive grounds *inter alia* seeking to revive the Assessing Officer's action disallowing/adding section 14A r.w. 8D disallowance involving varying sums and further assessing the assessee's corporate guarantee involving its associate enterprises at a uniform rate of 1.30%, respectively.

3. That being the case, we notice from a perusal of a case records that the assessee had derived exempt income of Rs. 16,685/- in the former

assessment year 2012-13 and NIL exempt income in assessment year 2013-14; respectively. And also that it had *suo moto* disallowed Rs. 7,10,318/- & Rs. 7,18,726/- i.e., more than the exempt income itself going by Joint Investment Pvt. Ltd. Vs. CIT (2015) 372 ITR 694 (Del). This being the clinching factual position, we see hardly any merit in the Revenue's identical instant former substantive ground that we ought to revive the Assessing Officer's action herein in very terms. Rejected accordingly.

4. Next comes the Revenue's identical latter substantive ground that the Assessing Officer; going by the Transfer Pricing Officer (for short, " the TPO")'s respective findings; had rightly made arms' length price (for short, "ALP") adjustments herein @ 1.30 of the assessee's corporate guarantee(s) involving its overseas associates enterprises. We find that what all the learned CIT(A) identical detailed discussion has done is to restrict the same to that @ 0.5% in light of CIT v. Everest Kanto Cylinder Ltd. [(2015) 378 ITR 57 (Bom)]. Faced with this situation, we uphold the learned CIT(A) detailed discussion that the assessee's aforesaid corporate guarantee commission ought to be assessed @ 0.5% only. The Revenue's instant identical latter substantive ground as well as its twin appeals ITA no. 2383 & 2384/ Del/2018 fail in very terms.

5. We next advert to the assessee's cross appeals. Its identical first and foremost substantive ground in both these assessment years pleads that the learned lower authorities have erred in law and on facts in disallowing its provision towards accrued liability of leave encashment involving varying

sums made on the accrual basis. We are afraid that the same hardly carried any merit once directed in Union of India vs. Exide Industries Limited (2020) 425 ITR 1 (SC) settling the same in the department's favour thereby upholding constitutionality of section 43B(f) of the Act. This is indeed coupled with the fact that the learned co-ordinate bench earlier order(s) in the assessee's case itself in preceding assessment year(s) further held such a provision as allowable in the year of actual payment only. We thus reject the assessee's instant identical substantive grounds in both these assessment years in very terms.

6. Next comes the second identical substantive issue between the parties in both these assessment years wherein the assessee claim its receipts derived from sale of carbon credits as capital in nature than that assessed as a revenue item in both the lower proceedings. We make it clear that the assessee further case is that the same also deserves to be excluded for section 115JB MAT computation as well.

7. That being the case, we find that not only the case law CIT v. My Home Power Ltd. [2014] 365 ITR 82 (Andhra Pradesh) has settled the issue in assessee's favour and against the department but also the legislature inserted section 115BBG in the Act vide the Finance Act, 2017 with effect from 01.04.2017 stipulating taxation of such an income derived from sale/transfer of carbon credits @ 10% with prospective effect only. We reiterate that the assessment years herein are ie. A.Y. 2012-13 & 2013-14. We conclude in this factual backdrop that the assessee's impugned identical

receipt(s) derived from sale/transfer of carbon credits is not taxable being capital in nature which also deserve to be excluded for section 115JB MAT computation in very terms. The assessee succeeds in its second substantive ground in both these appeals therefore.

8. Learned counsel further invites our attention to the assessee's additional ground in both these appeals that its government grants received under the Focus Product Scheme (FPS) are also capital and not revenue items which deserves to be excluded for section 115JB MAT computation. Learned counsel takes us to its detailed paperbook wherein the tribunal's latest order dated 04.06.2025 in the assessee's and the Revenue's cross appeals in A.Y 2011-12 & 2014-15; has already rejected the latter's arguments; reading as under:

"23. Additional Ground No.2 raised by the assessee wherein it is requested inadvertently the incentive received under Foreign Trade Policy as 'Focus Product Scheme (FPS)' was declared as revenue receipts as against the capital receipts.

24. Before us, Ld. AR of the assessee submits that during the year under appeal, in terms of Foreign Trade Policy, 2004 promoted by the Government of India, various schemes were promoted for promotion of the business which includes FPS, focus product scheme etc. Vide Foreign Trade Policy, 2006 under special focus initiations, the FPS was introduced with the objective to provide incentive to export which are highly employment intensity under rural and semi-urban areas. Under this scheme, Government grant of INR 5,28,08,142/- was received by the assessee which was credited in the P&L Account as Government grant & incentive and as revenue receipts. The claim of the assessee is that it had wrongly treated the same as revenue receipt. Since this incentive is given to promote the employment opportunities in rural and semi-urban areas and to ensure optimum utilization of human resources therefore, it is a capital receipt in nature and not liable to tax. Therefore, Ld.AR requested that the income shown under

the head "Profit & Loss Account" at INR 5,28,08,142/- as Revenue receipts deserves to be held as capital receipts and deserves to be reduced from total income of the assessee. For this, he placed reliance on the judgement of hon'ble Rajasthan High court in the case of PCIT Vs. Nitin Spinners Ltd. reported in (2020) 116 Taxmann.com 26 (Raj.) and of the Co-ordinate Bench of the Delhi Tribunal in the case of Narayana Industries vs ACIT in ITA No.6153/Del/2017.

25. On the other hand, Ld. CIT DR for the Revenue opposed the request of the assessee and submits that the incentive is a revenue receipt as has rightly been declared by the assessee in the financial statements and therefore, the claim of the assessee taken through additional ground of appeal deserves to be dismissed.

26. Heard both the parties and perused the material available on record. It is seen that this incentive is given in terms of the Foreign Trade Policy where FPS scheme was promoted with the object to promote the employment opportunities in rural and semi urban areas. It is evident that this claim of treating the incentives received under Foreign Trade Policy as capital receipts is made for the first time before us by way of additional ground. We find that Hon'ble Supreme Court in Goetz India Ltd. Vs. CIT, reported in [2006] 284 ITR 323 and Hon'ble Bombay High Court in case of CIT Vs. Prithvi Brokers and Shareholders Pvt. Ltd., reported in [2012] 349 ITR 336 (Bom.) has held that the appellate authority can entertain a fresh claim made by the assessee, even if such a claim was not made in return of income or by way of revised return of income. We have already admitted the additional grounds of appeal taken by the assessee, accordingly the claim made by the assessee through additional ground filed is hereby admitted for adjudication on merits.

27. The brief facts of the case pertaining to this issue are that the assessee in its original return of income treated the incentives received under the foreign trade policy as revenue receipt and accordingly included the same in the computation of total income. Before us, in terms of application for the admission of additional grounds of appeal filed on 23.09.2020, the assessee has raised a claim that incentives received under the Foreign Trade Policy, towards FPS should be treated as capital receipt. The assessee by placing reliance upon the decision of the Hon'ble Supreme Court in Sahney Steel And Press Works Vs. CIT 228 ITR 252 (SC) and in the case of CIT Vs. Ponni Sugar & Chemicals Ltd. (2008) (306 ITR 392) submitted that considering the

objective for which the subsidy has been granted, the same should be considered as capital receipt. It was the submission that the overall objective of the FPS schemes under the Foreign Trade Policy is to expand the employment opportunities. The assessee is a manufacturer of plates and pipes, re-rolling of cold rolled strips and coating of pipes and Financing Business & investment in Mutual Funds. Assessee is also engaged in exports some of the products to various countries for which the government provides certain subsidies under the Foreign Trade Policy. As noted above, the assessee initially, in its return of income, treated the subsidies received as Revenue receipts and offered the same to tax. However, before us, the assessee filed additional grounds claiming that the subsidy received under the FPS scheme is capital in nature and therefore cannot be included in the total income of the assessee.

28. Now we analyzed the objectives of subsidies received under the aforesaid scheme. The Government of India notified the Foreign Trade Policy, 2009-14 under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 vide notification No 1 (RE-2012)/2009-14 dated 05.06.2012. The Policy contains a Chapter on Special Focus Initiatives, wherein the objective of special focus incentives given for various sectors (FMS and FPS) is specified as under:

"(a) with a view to continuously increasing our percentage share of global trade and expanding employment opportunities, certain special focus initiatives have been identified / continued for Market Diversification, Technological Upgradation, Support to status holders, Agriculture, Handlooms, Handicraft, Gems & Jewellery, Leather, Marine, Electronics and IT Hardware manufacturing Industries, Green products, Exports of products from North-East, Sports Goods and Toys sectors Government of India shall make concerted efforts to promote exports in these sectors by specific sectoral strategies that shall be notified from time to time"

29. From the plain reading of the relevant policy document of the Government of India, it is clear that the objective of the subsidy granted under FPS is to increase the employment generation in certain sectors. The object of the subsidy under this scheme was not to enable the assessee to run the business more profitably. The object was primarily to provide encouragement and support, which would create benefits of enduring nature, for the Industry as a whole in certain sectors of economy.

30. Similar issue of the subsidy granted under the FPS scheme came up for consideration before the Hon'ble Rajasthan High Court in *PCIT Vs. Nitin Spinners Ltd. (supra)*, wherein the Hon'ble High Court observed as under:

"8. As far as the question with regard to Focus Marketing Scheme was concerned, apparently the Central Government gave the subsidy to enhance Indian export potential in the international market. It was not granted to meet the cost of expenditure to meet the competition of the Indian textile market. The ITAT took note of judgment in *Ponni Sugars & Chemicals Ltd. (supra)* and held that the amount was not an export incentive, but rather capital receipt and therefore, not taxable. This Court is of the opinion that there is no infirmity with the reason."

31. It is also relevant to mention here that the Hon'ble Supreme Court dismissed the Revenue's Special Leave Petition in *PCIT Vs. Nitin Spinners Ltd., [2021] 283 Taxman 2(SC)*, against the aforesaid decision of the Hon'ble Rajasthan High Court.

32. This issue has come up before the Co-ordinate Bench of ITAT Delhi in the case of *Narayan Industries (supra)* wherein the Co-ordinate Bench in terms of its order dated 30.05.2022 has admitted the same as capital receipts by making following observations:-

Focus Products Scheme:

7. "During the year under consideration, the assessee received consideration amounting to Rs.1,91,78,974/- from sale of Focus Scrip/ License received under "Focus Products Scheme" under the Foreign Trade Policy which was claimed as deduction under section 80-IC of the Act.

8. In the assessment order, the Assessing Officer denied deduction of income received from sale of FPS on the ground that such income is not related to manufacture or sale of the products of the undertaking and is only related to a post manufacturing event, which is not eligible for deduction under section 80-IC of the Act as per the decision of the Hon'ble Supreme Court in the case of *Sterling Foods 237 ITR 579 (SC)*.

9 On appeal, the Id. CIT(A), vide order dated 28.07.2017 upheld the addition made by the assessing officer and held that on perusal of the policy it

cannot be upheld that the consideration received on sale of focus scrip/ License is a reimbursement of cost incurred since the scrip is available only post export. It was further held that consideration received on sale of focus scrip/ license cannot be considered as profits and gains derived from industrial undertaking by placing reliance on the judgment of Hon'ble Supreme Court in the case of Liberty India Ltd 317 ITR 218 (SC).

10. We find that the following case, similar issue of subsidy raised for the first time before the Tribunal, was admitted and duly adjudicated by the Tribunal:

- Shree Bala ji Alloys vs. ITO 127 TTJ 129 (Asr. ITAT)- Confirmed by Supreme Court in 287 CTR 459 (SC)*
- Indo Java & Co. us. IAC 30 ITD 161 (Del ITAT)(SB)*
- Crystal Crop Protection Pvt. Ltd. us. DCIT in ITA No. 1539 of 2016 (Del. ITAT)*
- Tripti Manthol Inds us. ITO in ITA No. 58 of 2011 (Asr. ITAT)*

11. The Government of India in its Foreign Trade Policy 2004 started Special Focus Initiatives with an object to continuously increase our percentage share of global trade and expanding employment opportunities especially in rural and semi-urban areas. Under the policy of Special Focus Initiative certain special focus initiatives for market diversification, technological upgradation, support to status holders were identified for which specific schemes like Focus Market Scheme (FMS), Focus Product Scheme (FPS), Technological Upgradation Fund Scheme (TUFS), Status Holders Incentive Scheme (SHIS) were started.

12. In Foreign Trade Policy 2006, under the Special Focus Initiatives, Focus Product Scheme (FPS) was introduced with an objective to incentivize export of such products which have high employment intensity in rural and semi-urban areas, so as to offset the inherent infrastructure inefficiencies and other associated costs involved in marketing of these products. The scheme was launched in 2006 and subsequently, several amendments were made to the scheme by adding more products eligible for export incentives under the scheme and giving different rate of duty credit scrip concessions.

13. Focus Product Scheme (FPS) was first introduced with the objective to incentivize export of such products which have high export intensity/ employment potential, so as to offset infrastructure

inefficiencies and other associated costs involved in marketing of subsequently, several amendments were made to the scheme by adding more products eligible for export incentives under the scheme and giving different rate of duty credit scrip concessions.

14. The amount of incentive received under Technology Upgradation Fund the following cases:

- *CIT us. Shyam Lal Bansal 200 Taxman 14 (P&H HC)*
- *CIT us. Gloster Jute Mills Ltd. 416 ITR 458 (Cal. HC)*
- *Jai Bhagwan Oil & Flour Mills us. Union of India (2009) 14 SCC 63*
- *Shiv Shakti Flour Mills (P.) Ltd us. CIT 390 ITR 346 (Gauhati HC)*
- *DCIT vs. Sutlej Textiles & Industries Ltd in ITA 5142/Del/2013 (AY 2009-10)*
- *DCIT us. Sutlej Textiles and Industries Ltd: ITA 337/Del/2015 (AY 2011-12)*
- *DCIT v. Sutlej Textiles and Industries Ltd.: 44 CCH 287 (Kol.ITAT)*
- *DCIT US. BSL Ltd.: 183 ITD 675 (Kol Trib.)*
- *DCIT vs. JK Cement Ltd.: ITA 499/Lkw/2010 (Lucknow Trib.)*
- *Sipca India (P.) Ltd. us. DCIT: 186 TTJ 289 (Kol Trib.)*
- *DCIT us. Gloster Jute Mills Ltd. 33 ITR (Trib) 322 (Kol. ITAT)*
- *Suvidha Spinners Pvt. Ltd. us. DCIT: ITA Nos. 65 & 66/Jodh/2018 (Jodhpur Tribunal)*
- *Crystal Crop Protection Pvt. Ltd. us. DCIT: ITA No. 1539 of 2016 (Del. ITAT)*

15. In light of the aforesaid, applying the 'purpose test' laid down by the Hon'ble Supreme Court in various decisions, particularly Sahney Steel (supra) and Ponni Sugars (supra) and also the direct judicial precedents referred supra, we hold that Focus Products Incentive in the nature of capital receipt not liable to tax under the provisions of the Income Tax Act, 1961."

33. Thus, when the objective of the aforesaid subsidies has been admitted to be to encourage industries by providing industrial growth, technological upgradation and increase the employment generation in certain sectors, in our considered opinion having regard to the 'purpose test' laid down by the Supreme Court in the aforementioned cases, the amounts received by the appellant during the year, under FPS Schemes as subsidy should be treated as capital receipt in its hands, not includible in the total income. Accordingly, the additional ground of appeal No. 2 is allowed."

All these clinching legal and factual developments have gone unrebutted from the Revenue side. We thus adopt judicial consistency to accept the assessee's instant identical additional ground in both these assessment years and direct the learned Assessing Officer to treat the impugned government grant(s) received under the Focus Products Scheme ("FPS") as a capital item liable to be excluded for section 115JB MAT computation as well. The assessee's instant former appeal ITA No. 2747/Del/2018 is partly accepted.

Learned counsel at this stage invites our attention to the assessee's fourth substantive ground in its appeal ITA No. 2748/Del/2018 that both the lower authorities herein have erred in law and on facts in assessing its interest income of Rs. 50.63 lakhs as income from "other" sources; in assessment order as upheld in the CIT(A)'s detailed discussion; reading as under:

5.16 Grounds No. 6.1 & 6.2 pertain to the contention of the appellant that the AO had erred in holding that carbon credits earned by the appellant were revenue receipts and not capital receipts. The appellant also argued that the AO had erred in not holding deduction under section 80 IA on carbon credits earned by the appellant and wished to resile from its stand of treating carbon credit as a venue receipt and instead desired to treat the same as capital receipt.

5.17 The issue has been decided by me in AY 2012-13 in Appeal No 07/2017-18 dated 31.01.2018 where it has been observed as under:-

“Grounds No. 20 – 22:

5.23 Grounds No. 20–22 pertain to the contention of the appellant that the AO had erred in holding that carbon credits earned by the appellant were revenue receipts and not capital receipts and not allowing deduction under section 80IA of the Act on carbon credits.

5.24 The contention of the appellant is not accepted. In its original return of income the appellant claimed that carbon credits were revenue receipts. During the course of assessment proceedings it wanted to change its stand and claim that carbon credits were capital receipts even though the time for filing device return of income had expired. The AO did not admit the revised claim of as the same had not been made through revised return. This view has been propounded by the Hon'ble Supreme Court in the case of Goetze (India) Ltd Vs CIT 284 ITR 323 (SC). As the powers of the CIT(A) are co-terminus with that of the AO, the contention of the appellant is not accepted. The ground of appeal is dismissed.”

5.18 The material facts of the case are the same in the instant year. The appellant has similarly changed its stand during the course of assessment proceedings when the time for filing return of income was over. The AO did not admit the revised claim of as the same had not been made through revised return. This view has been propounded by the Hon'ble Supreme Court in the case of Goetze (India) Ltd Vs CIT 284 ITR 323 (SC). As the powers of the CIT(A) are co-terminus with that of the AO, the contention of the appellant is not accepted. It is also held that profits from sale of carbon credits are ancillary profits and not profits derived from eligible business hence deduction u/s 80IA is not available on income from sale of carbon credits. The ground of appeal is dismissed.

Ground No. 7.1 7 7.2:

5.19 Ground No. 7.1 7 7.2 pertain to the contention of the appellant that the AO had erred in treating interest income from FDRs as income from other sources.



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5.20 The AO in his impugned order has stated as follows: –

“6. During the course of assessment proceedings on perusal of details filed by the assessee company it has been noticed that assessee has claimed an amount of Rs. 4751.28 lakhs towards interest and bank charges under the head pre-operated expenses and net interest received Rs. 50.63 lakhs. The AR of the assessee company was asked to explain as to why the net interest income of Rs. 50.63 lakhs should not be treated as income from other sources. In response, thereto the AR of the assessee company has submitted its reply. The submission filed by the assessee company is duly considered and found not tenable. On the facts and circumstances of the case interest derived by the assessee company from the borrowed fund which were invested in short-term deposits with bank would be chargeable to tax under the head income from other sources would go to reduce the interest payable by the assessee company on the term loans. The reliance is also placed in the case of Tuticorin Alcalde chemicals fertilisers Ltd versus Commissioner of income tax to 27 ITR 172 (SC). As discussed above, net interest received amounting to Rs. 50.63 lakhs is hereby added and the total income of the assessee company towards (income from other sources).”

The appellant, on the other hand, has stated as follows in his submission filed during the course of appellate proceedings:-

“Appellant was allotted mining lease by Government of Rajasthan with a precondition to deposit 10 crore as **keenness money** (security deposit) to be given to Mining Department, Government of Rajasthan. FDRs of the aforesaid amounts were made by appellant and were deposited with the Mining Department, Govt. of Rajasthan. During the year under assessment appellant earned sum of Rs. 97.22 lakhs as interest on these FDR's. Commercial production for part of the project commenced during the year, accordingly proportionate interest income amounting to Rs. 46.59 lakhs was treated as revenue income and proportionate interest amounting to Rs 50.63 lakhs was treated as capital receipt and was reduced from cost of project i.e. interest expenditure appearing under the head preoperative expenses was shown as net of this amount. Please refer to Note no 50 to financial notes attached with the accounts of the appellant. Kindly note as per clause 10.3 of the lease sanction letter it is the precondition by the Government of Rajasthan that before starting mining activity and subsequent installation of steel plant we have to deposit keenness money, which was a guarantee/surety money.

Kindly note that interest was earned on deposit which was given as guarantee for commencement of project. FD was not made out of surplus fund available with the appellant with the intention of earning interest income. Income earned was only incidental activity and main purpose was to give guarantee for the installation of project therefore interest earned was capital receipt. Interest so earned was inextricably linked with commencement of project hence the same was reduced from project cost. Since only partial project was completed partial interest was capitalized.

Reliance is placed for this proposition on the under mentioned decisions:-

CIT v KARNAL COOPERTIVE SUGAR MILLS LTD 243 ITR 2 (SC)

CIT v BOKARO STEELS LTD 236 ITR 315 (SC)

CIT v KARANTKA POWER CORP 247 ITR 268 (SC)

Similar views have been opined by Delhi High Court on interest earned during construction period in the under mentioned decisions:-

INDAIN OIL PANIPAT CONST. LTD v ITO 315 ITR 255 (DEL)

CIT v JAYPEE DSC VENTURES LTD (2011) 335 ITR 132 (DEL)

In the assessment AO has treated the amount of Rs 50.63 lacs also as revenue receipt relying on the Supreme Court decision in the case of Tutocorin Alkali Chemicals Fertilizers Ltd. Vs CIT 227 ITR 172 (SC), It is humbly stated that in Tuticorin Alkali's case assessee earned on surplus money available with it raised by it from bank for installation of project. Entire money available was not immediately required consequently the surplus amount was deposited in short terms deposit with bank.

as in these circumstances held that deposit was made to earn interest hence the same was taxable. However in appellant case situation is totally different FD was made to comply with condition of project installation and was not made for earning any interest on surplus money in such situation income so earned is merely incidental and capital in nature.

In view of our above submissions it is humble pleaded that AO be directed not to treat interest income of Rs 50.63 lakhs as revenue receipt and upheld the treatment given by appellant in the matter.

Without prejudice to above, AO has put appellant to double disadvantage. During the year interest of Rs 50.63 lakh has been treated by appellant as capital receipt and reduce from project cost AO disagreeing with appellant has treated the same as revenue receipt but simultaneously did not reverse the appellant decision and increased the project cost by this amount. It is submitted in case AO decision in this regard is upheld then he should be directed to increase the project cost by this amount.”

5.21 I have examined the submission and the paper book filed by the appellant. They do not contain any document in support of the contention of the appellant that the appellant was allotted mining lease by Government of Rajasthan with a precondition to deposit 10 crore as “keenness money” (security deposit) to be given to Mining Department, Government of Rajasthan and that FDRs of the aforesaid amounts were made by appellant and were deposited with the Mining Department, Govt. of Rajasthan. It has also not been stated whether the above mentioned documents were submitted before the AO during the course of appellate proceedings. In view of the same, the ground of appeal is dismissed.

9. We have given our thoughtful consideration to the assessee and the revenue’s vehement submissions. We hardly see any reason to concur with the learned lower authorities’ respective findings under challenge. This is for the precise reason that as against the assessee having deposited its alleged surplus money in the bank account, the amount herein was kept as a surety with the government of Rajasthan as a precondition for carrying out mining works and operations. We thus quote hon’ble apex court’s landmark decision in CIT v. Bokaro Steel Ltd. (1999) 236 ITR 315 (SC) that such an income could not have been treated as that derived from other sources.

10. The Revenue at this stage seeks to buttress the point that the assessee has all along failed to place on record the corresponding documents as noticed in the CIT(A)’s above extracted discussion. We accordingly accept the assessee’s case in principle and directed learned

Assessing Officer to finalize his consequential computation after verification of the relevant supportive documents only. The assessee's instant latter appeal ITA no. 2748/Del/2018 is partly allowed in very terms.

11. Learned counsel lastly submits that the assessee's third appeal ITA no. 463/Del/2019 in assessment year 2013-14 raise the sole substantive issue of "interest" income of Rs. 50.63 lakhs (*supra*) "duplicate" file only. Rejected accordingly.

12. To sum up, the Revenue's twin appeals ITA Nos. 2383 & 2384/Del/2018 are dismissed. The assessee's two cross appeals ITA Nos. 2747/Del/2018, 2748/Del/2018 are partly allowed. Its third "duplicate" appeal ITA No. 463/Del/2019 is dismissed in above facts. A copy of this common order be placed in the respective case files.

Order Pronounced in the Open Court on 13.07.2026 .

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 13.07.2026

Pooja Mittal, Sr. PS

Copy forwarded to:

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

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

ASSISTANT REGISTRAR