IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No.128/Ind/2020
Assessment Year: 2012-13

M/s. Bhopal Dugdh Sangh Sahakari Maryadit, Bhopal	Vs.	DCIT, 1(1) Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
P.A. No. AAAAB 0221 D		

Appellant by : Shri Ashish Goyal & N.D. Patva, ARs
Respondent by : Shri Amit Soni, Sr. D.R.

Date of Hearing	**05.04.2022**
Date of Pronouncement	**28.06.2022**

O R D E R

Per B.M. Biyani, A.M.:

1. This appeal filed by the assessee is directed against the order dated 29.02.2016 of learned Commissioner of Income-Tax (Appeals)-1 **["Ld. CIT(A)"]** in Appeal No. CIT(A)-1/BPL/IT-680/14-15, which in turn arises out of the assessment-order dated 16.02.2015, passed by the learned DCIT-1(1), Bhopal **["Ld. AO"]** u/s 143(3) of the Income-tax Act, 1961 **["the Act"]** for the Assessment-Year 2012-13.

2. The registry has informed that the appeal has been filed after a delay of 3 years and 276 days. The Ld. AR submitted that the assessee is a co-

operative society registered under the provisions of M.P. Co-operative Society Act, 1960, engaged in the production and distribution of milk and milk-products for the benefit of public. The Ld. AR further submitted that the assessee has moved an application for condonation of delay supported by an affidavit dated 21.06.2021 deposed by Ms. Uma Malviya, then Finance-in-charge and another affidavit dated 17.03.2022 deposed by Mr. Salabh Siyote, present Finance-in-charge. In both of these affidavits, the deponents have solemnly affirmed that one Mr. Basant Joshi was the Finance-in-charge of the assesse-society in March, 2016 and he received the order of Ld. CIT(A) against which the present appeal was to be filed. However, Mr. Basant Joshi kept the order in file and did not take any action. Thereafter, Mr. Basant Joshi retired from assessee on 31.12.2016 too. Hence the matter could not reach to the knowledge of management. Later in the last week of February, 2020 when the order was searched for making reply to the Govt., it was traced in the file of Mr. Basant Joshi. Promptly thereafter, the appeal was filed on 02.03.2020. Both of the deponents have also affirmed that they are not able to contact Mr. Basant Joshi despite several efforts. The Ld. AR submitted that the delay has occurred due to this reason alone and there was no *malafide* intention or deliberate attempt on the part of the assessee. The Ld. AR further submitted that by delayed filing, the assessee does not stand to derive any benefit or advantage. In these circumstances, relying upon the decision of Hon'ble Apex Court in **Collector, Land Acquisition Vs. Mst. Katiji and Others (1987) 167 ITR 471, Improvement Trust, Ludhiana Civil Appeal No. 2395 of 2008 (SC)**, the Ld. AR prayed to condone the delay. We find sufficient strength in the submission of Ld. AR. We confronted the Ld. DR, who without demonstrating any objection, left the matter to the wisdom of the Bench. Taking into account that there was a sufficient cause of delay as explained by the assesse, having regard to the decision of Hon'ble Apex Court and in order to grant justice, we condoned the delay and proceeded for hearing of the appeal.

3. The assessee submitted return of income declaring a total income of Rs. 5,41,76,780/-. The Ld. AO selected case for scrutiny, issued statutory

notices and finally completed assessment by passing order u/s 143(3) of the Act whereby the total income had been assessed at Rs. 6,40,73,946/- after making following additions:

Addition of interest income on grants and subsidy	53,03,707/-
Disallowance of bad-debt claim	43,80,166/-
Disallowance of interest on late payment of TDS	2,13,293/-

Being aggrieved by the order of Ld. AO, the assessee submitted appeal to Ld. CIT(A). The Ld. CIT(A), however, dismissed the appeal and did not grant any relief. Again being aggrieved by the order of Ld. CIT(A), the assessee has filed this appeal and now before us.

4. The assessee has raised following Grounds:

1. That the assessment order is invalid, without jurisdiction, barred by limitation, illegal and liable to be quashed.

2. That the Ld. CIT(A)-1, Bhopal, erred in confirming the act of Ld. AO in considering the Interest received on Grants and Subsidy from Government amounting to Rs. 53,03,707/- as income from other sources without considering the facts and circumstances of the case and submissions made in the matter.

3. That the Ld. CIT(A)-1, Bhopal, erred in confirming the act of Ld. AO in treating the bad debts amounting to Rs. 43,80,166/- as wrong claim and adding them back to total income without considering the facts and circumstances of the case and submissions made in the matter.

4. That the Ld. CIT(A)-1, Bhopal, erred in confirming the disallowance of interest on TDS amounting to Rs. 2,13,093/- without considering the facts and circumstances of the case and submissions made in the matter.

3.

5. We take up Ground No. 1. This Ground is general in nature and the assessee has not pressed. Hence this Ground does not require any adjudication.

6. In next Ground No. 2, the assessee has challenged the addition made by Ld. AO on account of interest income of Rs. 53,03,707/- earned on grant and subsidy received from Govt.

7. The assessee is a co-operative society registered under the provisions of M.P. Co-operative Society Act, 1960, engaged in the production and distribution of milk and milk-products for the benefit of public. The assessee receives grants and subsidies from Govt. which are held in bank deposits and interest income is earned. During the previous year relevant to the assessment-year under consideration, the assesse earned interest income of Rs. 53,03,707/-. The Ld. AO observed that the assessee has credited this interest income of Rs. 53,03,707/- to "Grand and Subsidy A/c" and not to P&L A/c. The Ld. AO asked the assessee to explain as to why the said interest income of Rs. 53,03,707/- had not been offered for taxation. The assessee submitted that the said income has not been offered because as per the norms of the grant this amount too has to be expended over the Project itself and liable for refund in case of non-expended. The Ld. AO, however, did not accept the submission of assessee and made addition of Rs. 53,03,707/- by holding that the interest is a revenue receipt no norms can overrule the provisions of Income Tax Act.

8. Before Ld. CIT(A), the assessee repeated the submissions made before Ld. AO and relied upon certain judgements. However, the Ld. CIT(A) concurred with the Ld. AO and confirmed the addition by observing as under:

> ***"3.1 During appellate proceedings the appellant gave his submissions. The submissions are merely reiteration of the submissions given before the A.O. I have carefully considered the facts of the case and the submissions of the appellant. The appellant also relied on the decision in the case of High Court of***

Gujarat, Ahmedabad, Tax Appeal No. 855 of 2013, Commissioner of Income Tax II Versus SAR Infracon Pvt. Ltd, Date of Order/Pronouncement - 3rd October 2013. The facts of the present case in appeal can be distinguished from the decision cited by the appellant. In the present case the appellant has not produced any evidence wherein it is stated that the interest earned on the grant/subsidy received by the appellant would be added to the grant already released. During the year the appellant has received grant and subsidy from many different organizations. The interest accrued in the grant and subsidy account is a revenue receipt and as per the provisions of Income Tax Act the same has to be shown in the Profit and Loss Account. Therefore, the contention of the appellant is rejected and the addition made by the AO of Rs. 53,03,707/- on account of interest on grant and subsidy is upheld. This ground of appeal is rejected."

9. Before us, the Ld. AR placed heavy reliance upon the following judgements:

(i) CIT, Gandhinagar Vs. Gujarat State Police Housing Corporation Ltd (2015) 60 taxmann.com 493 (Guj)

(ii) CIT-II Vs. Sar Infracon Pvt. Ltd. Tax Appeal No. 855 of 2013 order dated 03.10.2013 (Guj)

(iii) CIT vs. Karnataka Urban Infrastructure (2006) 284 ITR 582 (Kar)

(iv) CIT, Gandhinagar vs. Gujarat Urban Development Company Limited Tax Appeal No. 71 of 2015 (Guj)

The Ld. AR argued that in all these cases, the Hon'ble Courts have held that the interest income earned on grant and subsidy received from Govt. is not taxable as income of assesse. The Ld. AR submitted that the present issue is well-covered by these judgements which are in favour of the assesse and therefore the addition made by Ld. AO is wrong and deserves to be deleted.

10. Per contra, the Ld. DR supported the orders of lower authorities and argued that though the assesse received subsidy and grant from Govt. but the moneys received therein were invested by the assessee and it is the

assessee who earned interest income thereon and such interest belonged to the assesse and nobody else. According to the Ld. DR, every income earned by a person is taxable unless specifically exempted in the provisions of Income-tax Act. The Ld. DR, therefore, submitted that the assessee has not offered for taxation the interest income earned by it and therefore the Ld. AO has rightly made the addition, which needs to be upheld.

11. We have considered the rival submissions of both sides and perused the material held on record. Before proceeding further, we would like to analyse the judgements cited by Ld. AR as under:

(i) In **CIT, Gandhinagar Vs. Gujarat State Police Housing Corporation Ltd (2015) 60 taxmann.com 493,** the Hon'ble Gujarat High Court held as under:

"2.1 At the outset, it is required to noted and it is not disputed by Shri Sudhir Mehta, learned advocate appearing on behalf of the revenue that the issue involved in the present Tax Appeal and the proposed substantial questions of law in the present Tax Appeal is squarely covered against the revenue in view of the decision of the Division Bench of this Court in the case of General Motors India P. Ltd v. Dy. CIT [2013] 354 ITR 244 / [2012] 210 Taxman 20 (Mag.) / 25 taxmann.com 364 (Guj.) as well as another decision of this Court in the case of Sar lnfracon (P.) Ltd (Supra). In the identical facts and circumstances of the case, the Division Bench of this Court in the case of Gujarat Power Corpn. Ltd Vs. ITO [2013] 354 ITR 201 / 210 Taxman 366 / 25 taxmann.com 14 (Guj.) as well as in the case of Sar Infracon (P.) Ltd (Supra) have held that the interest temporarily earned on the grant received from the Government and that too as per the instructions given by the State Government cannot be included in the income of the assessee. Under the circumstances, while passing the impugned order, the learned tribunal has followed the decision of the Division Bench of this Court in the case of Sar lnfracon (P.) Ltd (Supra) and, therefore, no error has been committed by the learned Tribunal while allowing the appeal preferred by the assesse. No question of law, much less substantial question of law, arises in the present Tax Appeal."

(ii) In **CIT-II Vs. Sar Infracon Pvt. Ltd. Tax Appeal No. 855 of 2013 order dated 03.10.2013,** the Hon'ble Gujarat High court held as under:

"6. ..... As stated hereinabove, in the letter of the Central Government releasing the grant, which provides a condition that the interest earned on the central grant already released would form part of the central grant limit of Rs. 50 Crores, the amount of Rs 21,22,253/= being interest earned on the fixed deposit of Rs. 16.70 crores which was the grant received by the assessee from the Central Government cannot be said to be its income and the aforesaid sum, as per the condition of release of grant, the interest earned on the Central Government grant ie., Rs. 21,22,253/= in the present case is to be included as a part of the grant received from the Central Government."

(iii) In **CIT vs. Karnataka Urban Infrastructure (2006) 284 ITR 582 (Kar),** the Hon'ble Karnataka High Court has noted the facts as under and thereby concluded that the interest income is not taxable:

"2. Few facts leading to this appeal, are as under:

.....The tribunal looked into the guidelines which provided the background of the scheme. The Tribunal also looked into the terms of the scheme. Therefore, the Tribunal proceeded to hold that the assesse is nothing but trustee of funds entrusted to carry out the objects of the Government while implementing the scheme. The assessee in fact acted as an agent of the Governments of both the Central and the State for implementing the scheme of the Government, this being the factual position, the lower authorities committed serious error in treating the interest as income of the assessee and bringing the same to tax. Therefore, the Tribunal set aside the orders of the AO and the first appellate authority and the claim of the assesse was allowed. As noticed by us earlier, aggrieved by the said order the Revenue has preferred this appeal."

(iv) In **CIT, Gandhinagar vs. Gujarat Urban Development Company Limited Tax Appeal No. 71 of 2015,** the Hon'ble Gujrat High Court has noted the following facts and thereby held that interest income was not taxable:

"6.1 ...The Hon'ble Tribunal on considering the letter of the Central Government while sanctioning the grant in favour of the

assessee, more particularly the condition that "the interest earned on the central grant already released would form part of the central grant limit of Rs. 50 crores" and considering the decision of the Hon'ble Gujrat High Court in the case of Gujrat Municipal Finance Board Vs. Dy. CIT reported at (1996) 221 ITR 317 as well as in the case of Gujrat Power Corporation Ltd. Vs. ITO reported at (2013) 354 ITR 201 (Guj), the Tribunal has allowed the appeal by deleting the addition of Rs. 1,25,44,938/- made by the AO. The Hon'ble Jurisdictional High Court affirmed the view taken by the Tribunal."

12. From a careful reading of all these judgements, it is quite clear that the only basis of non-taxation of interest income in the hands of assesse, was the term or condition of the scheme under which subsidy or grant was received. If the term or condition dictates that the interest income shall form part of the subsidy or if an inference can be culled out from the scheme of subsidy that the interest income shall be expended over the project and liable for refund to the Govt. if not utilised or that the assessee is merely acting as an extended arm of the Govt., then only the interest income of Rs. 53,03,707/- earned by the assessee shall not be taxable and this is the precise contention of the Ld. CIT(A). In fact, the assesse has also submitted before the Ld. AO "***as per the norms of the grant this amount too has to be expended over the Project itself and liable for refund in case of non-expended"***. However we observe that the assessee has not produced the scheme of subsidy or any documentary evidence before the lower authorities to support his submission. Even the Ld. CIT(A), though accepting the judgements, has also noted in his order that the assessee has not given any evidence. Therefore the lower authorities were not able to verify the contention of assesse or the applicability of judgements. In such circumstances, we feel it appropriate to give one more opportunity to the assessee to submit the relevant evidences to the Ld. AO so that the Ld. AO can ascertain the correct position and decide the issue properly in accordance with the judgements narrated above. Therefore, we remand this issue back to the file of Ld. AO. The Ground No. 2 is thus allowed for statistical purposes.

13. Now we take up next Ground No. 3. During hearing, the Ld. AR has not pressed this ground and accepted as withdrawn. Therefore this Ground does not require any adjudication.

14. Now we take up the last Ground No. 4. The issue involved in this ground is the disallowance of interest expenditure on late payment of TDS amounting to Rs. 2,13,093/-.

15. During assessment proceeding, the Ld. AO observed that the assessee has made delay in payment of TDS and therefore paid interest of Rs. 2,13,093/- u/s 201(1A) of the Act to the Income-tax Department. The assessee has debited this interest expenditure to P&L A/c and claimed as business-deduction u/s 37(1) of the Act. The Ld. AO, however, observed that the interest has been paid on account of delay in payment of TDS deducted and therefore it is in the nature of fine and therefore not allowable as deduction. On this basis, the Ld. AO disallowed the deduction of Rs. 2,13,093/-.

16. The Ld. CIT(A) agreed with the Ld. AO and confirmed the disallowance.

17. Before us, the Ld. AR placed reliance upon the decision of ITAT, Kolkata in **DCIT Vs. M/s. Rungta Mines Ltd. ITA No.1531/Kol/2017 order dated 05.10.2018** for assessment-year 2014-15, which is again based on **ITA No. 1887/Kol/2016 for assessment-year 2011-12** in the case of very same assessee. The relevant paras relied upon by the Ld. AR are reproduced below:

> ***"The issue of delay in the payment of service tax is directly covered by the judgment of Hon'ble Apex Court in the case of Lachmandas Mathura Vs. CIT reported in 254 ITR 799 in favour of assessee. The relevant extract of the judgment is reproduced below:***
>
> > ***"The High Court has proceeded on the basis that the interest on arrears of sales tax is penal in nature and has rejected the contention of the assessee that it is compensatory in nature. In taking the said view the High Court has placed reliance on its Full Bench's decision in***

> ***Saraya Sugar Mills (P.) Ltd. v. CIT [1979] 116 ITR 387 (All.) The learned counsel appearing for the appellant-assessee states that the said judgment of the Full Bench has been reversed by the larger Bench of the High Court in Triveni Engg. Works Ltd. v. CIT [1983] 144 ITR 732 (All.) (FB), wherein it has been held that interest on arrears of tax is compensatory in nature and not penal. This question has also been considered by this Court in Civil Appeal No. 830 of 1979 titled Saraya Sugar Mills (P.) Ltd. v. CIT decided on 29-2-1996. In that view of the matter, the appeal is allowed and question Nos. 1 and 2 are answered in favour of the assessee and against the revenue.***

In view of the above judgment, there remains no doubt that the interest expense on the delayed payment of service tax is allowable deduction.

The above principles can be applied to the interest expenses levied on account of delayed payment of TDS as it relates to the expenses claimed by the assessee which are subject to the TDS provisions. The assessee claims the specified expenses of certain amount in its profit & loss account and thereafter the assessee from the payment to the party deducts certain percentage as specified under the Act as TDS and pays to the Government Exchequer. The amount of TDS represents the amount of income tax of the party on whose behalf the payment was deducted & paid to the Government Exchequer. Thus the TDS amount does not represent the tax of the assessee but it is the tax of the party which has been paid by the assessee. Thus any delay in the payment of TDS by the assessee cannot be linked to the income tax of the assessee and consequently the principles laid down by the Hon'ble Apex Court in the case of Bharat Commerce Industries Ltd. Vs. CIT (1998) reported in 230 ITR 733 cannot be applied to the case on hand.

Thus, in our considered view, the principle laid down by the Hon'ble Supreme Court in the case of Bharat Commerce Industries Ltd. (supra) is not applicable in the instant facts of the case. Thus, we hold that the Assessing Officer in the instant case has wrongly applied the principle laid down by the Hon'ble Supreme Court in the case of Bharat Commerce Industries Ltd.(supra). We also find that the Hon'ble Supreme Court in the case of Lachmandas Mathura (Supra) has allowed the deduction on account of interest on late deposit of sales tax u/s 37(1) of the Act. In view of the above, we conclude that the interest expenses claimed by the assessee on account of delayed deposit of service tax as well as TDS liability are allowable expenses u/s 37(1) of the Act. In this view of the matter, we find no reason

to interfere in the order of Ld. CIT(A) and we uphold the same. Hence, this ground of Revenue is dismissed."

Relying upon this decision, the Ld. AR argued that the interest on late payment of TDS is allowable as business-deduction as held by Hon'ble ITAT, Kolkata and therefore the lower authorities have wrongly disallowed the deduction claimed by the assessee.

18. The Ld. DR supported the orders of lower authorities and argued that the TDS once deducted, becomes money of the exchequer and by delayed payment of the same, the exchequer is deprived of getting its money in time. Hence the interest levied u/s 201(1A) is certainly in the nature of fine or penalty and not deductible in computing taxable income. Therefore, the Ld. AO has rightly disallowed the deduction.

19. We have considered the rival submission of both sides. We observe that in **M/s. Rungta Mines Ltd. (supra)** cited by Ld. AR, the Hon'ble ITAT Kolkata has given preference to the decision of Hon'ble Apex Court in **Lachmandas Mathura Vs. CIT 254 ITR 799** wherein the deduction of interest on late payment of sales-tax was allowed as business deduction, as compared to the decision of Hon'ble Apex Court in **Bharat Commerce Industries Ltd. Vs. CIT (1998) 230 ITR 733** wherein the deduction of interest on late payment of income-tax was disallowed. The Hon'ble ITAT observed that the principle laid down in **Lachmandas Mathura Vs. CIT reported in 254 ITR 799** can be applied to the interest expenses levied on account of delayed payment of TDS as the assessee deducts TDS out of the specified expenses and the TDS so deducted represents the amount of income-tax of the parties on whose behalf it is deducted. Hence the TDS does not represent the income-tax of the assessee but it is the tax of the other parties. Therefore any delay in the payment of TDS by the assessee cannot be linked to the income tax of the assessee and consequently the principles laid down by the Hon'ble Apex Court in the case of **Bharat Commerce Industries Ltd. Vs. CIT (1998) reported in 230 ITR 733** cannot be applied.

At this stage, we take note of the following decisions which hold a totally opposite view:

(i) **CIT Vs. Chennai Properties and Investment Ltd. (1999) 239 ITR 435 (Madras High Court)**:

The Hon'ble High Court held thus:

"8. The liability for deduction of tax arises by reason of the provisions of the Act. Under Section 201, the consequence of failure to comply with the same renders that person liable to be deemed as an assessee in default with all the consequences attached thereto. The liability to pay interest on the amount not deducted or deducted but not paid is directly related to the failure to deduct or remit the amount. The amount required to be deducted is the amount payable as income-tax. The interest paid for the period of delay takes colour from the nature of the principal amount required to be paid, but not paid within time. The principal amount here would be the income-tax and the interest payable for delayed payment is the consequence of failure to pay the tax and in the circumstances, in the nature of a penalty though not described as such in Sub-section (1A) of Section 201 of the Act. The fact that the income-tax required to be remitted was not income-tax payable by the assessee, but is ultimately for the benefit of and to the credit of the recipient of the income on whose behalf that tax is payable does not in any manner alter the character of the payment, namely, its character as income tax.

9. Learned counsel for the Revenue submitted placing strong reliance on the recent decision of the Supreme Court in the case of Bharat Commerce and Industries Ltd. v. CIT[1998] 230 ITR 733, that payments required to be made by way of income-tax'under the Income-tax Act are not deductible as expenditure and the further amounts which a person may be required to pay by a reason of failure to comply with the provisions requiring the payments of the tax are also amounts which cannot be regarded as deductible expenditure under Section 37 of the Act.

10. In that case the question considered was as to whether interest paid on delayed payment of income-tax and surtax by way of instalments, on income voluntarily disclosed under the Voluntary Disclosure of Income and Wealth Act, 1976, is not in any way an expense incurred wholly or exclusively for the purpose of the assessee's business. The court held that (headnote) : "When interest is paid for committing a default in respect of the

statutory liability to pay advance tax, the amount paid and the expenditure incurred in that connection is not in any way connected with preserving or promoting the business of the assessee. . . The liability in the case of payment of income-tax and interest for delayed payment of income-tax or advance tax arises on the computation of the profits and gains of business". The court further held that (headnote): "Under the Income-tax Act, the payment of such interest is inextricably connected with the assessee's tax liability. If income-tax itself is not a permissible deduction under Section 37, any interest payable for default committed by the assessee in discharging his statutory obligation under the Income-tax Act, which is calculated with reference to the tax on income, cannot be allowed as deduction".

11. Before holding so, the court considered the decision of the apex court in the case of Mahalakshmi Sugar Mills Co. v. CIT [1980] 123 ITR 429, a decision rendered by three learned judges of the apex court and held that the ratio of that judgment had no application to the case before it in the case of Bharat Commerce and Industries Ltd. v. CIT [1998] 230 ITR 733. The assessee in the case of Mahalakskmi Sugar Mills Co. had claimed deduction of interest paid on arrears of sugarcane cess. The payment of sugarcane cess, as it was observed by the court in the case of Bharat Commerce and Industries, is very much a part of the assessee's business expense and any interest on arrears of cess would, therefore, take colour from the cess which is payable, that it was an indirect tax which had to be paid in the course of carrying on business.

14. As already noticed the payment of interest takes colour from the nature of the levy with reference to which such interest is paid and the tax required to be but not paid in time, which rendered the assessee liable for payment of interest was in the nature of a direct tax and similar to the income-tax payable under the Income-tax Act. The interest paid under Section 201(1A) of the Act, therefore, would not assume the character of business expenditure and cannot be regarded as a compensatory payment as contended by learned counsel for the assessee."

(ii) **Ferro Alloys Corporation Ltd. Vs. CIT(1992) 196 ITR 406 (Bombay High Court):**

The Hon'ble Court held thus:

"3. The point stands concluded against the assessee by the consistent view of this court right from Aruna Mills Ltd. [1957] 31 ITR 153 to CIT v. Ghatkopar Estate and Finance Corporation

(P) Ltd. [1989] 177 ITR 222 (Bom). The Delhi High Court in the case of Bharat Commerce Industries Ltd. v. CIT [1989] 180 ITR 37, have also taken the same view. Very fairly, Shri Bhide, learned counsel for the assessee, informs us that there is no decision which has taken a contrary view."

20. Thus we observe that the decision in **M/s Rungta Mines Ltd. (Supra)** relied upon by Ld. AR does not find support from the decisions of Hon'ble Madras High Court and Bombay High Court. We are consciously aware that the decisions of Hon'ble High Courts would prevail over the decision of Hon'ble ITAT, Kolkata. Therefore, respectfully following the decisions of Hon'ble High Courts, we are inclined to hold that the interest on late payment of TDS is not allowable as business deduction and the lower authorities have rightly disallowed the same. Therefore the Ground No. 4 is hereby dismissed.

21. In the result, the appeal of assessee is partly allowed for statistical purposes.

Order pronounced as per Rule 34 of I.T.A.T. Rules 1963 on this ...28th day of June, 2022.

Sd/-	**Sd/-**
(MAHAVIR PRASAD)	**(B.M. BIYANI)**
Judicial Member	Accountant Member

Indore, 28th June, 2022

Patel/ Sr. P.S.

Copies to:
(1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Sr. Private Secretary
Income Tax Appellate Tribunal

Indore Bench, Indore

1. Date of taking dictation: 09.05.2022
2. Date of typing & draft order placed before the Dictating Member: 24.02.2022
3. Date on which the approved draft comes to the Sr. P.S./P.S.: .....
4. Dt. on which the fair order is placed before the Dictating Member for Pronouncement: .....
5. Date on which the file goes to the Bench Clerk: .....
6. Date on which the file goes to the Head Clerk: .....
7. The dt. on which the file goes to the Astt. Registrar for signature on the order: .....
8. Date of despatch of the Order: .....