

**THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.1332/Ahd/2025
Assessment Year: 2018-19**

Hyderabad Yadgiri Tollway Private Limited, Sadbhav House, Opp. Law Garden Police Chowki, Ellisbridge, Ahmedabad – 380 006. (Gujarat). [PAN – AACCH 3521 J] (Appellant)	Vs.	Principal Commissioner of Income Tax-1, Aayakar Bhavan (Vejalpur), Nr. Sachin Tower, 100 Foot Road, Anandnagar-Prahladnagar Road, Ahmedabad – 380 015. (Gujarat) (Respondent)
Assessee by	Shri Dhinal Shah, AR	
Revenue by	Shri R. P. Rastogi, CIT-DR	
Date of Hearing	24.09.2025	
Date of Pronouncement	30.10.2025	

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal is filed by the assessee against the order of the Principal Commissioner of Income Tax, Ahmedabad-1 (in short “the PCIT”), dated 28.03.2025, passed in the capacity of his revisional jurisdiction under Section 263 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) for the Assessment Year (A.Y.) 2018-19.

2. There was a delay of 18 days in filing of this appeal. The assessee has filed an affidavit explaining the reason for delay. It is submitted that there was a delay in receiving the assistance from the Counsel for filing the present appeal which led to the marginal delay in filing of the appeal.

An affidavit of Sh. Shailesh Balaram Gelada, AR of the assessee, has also been brought on record. He has explained that due to his engagement with year-end finalisation of accounts and other compliances, he could not attend to the matter in time and there was delay on his part in drafting the appeal for the assessee. The assessee has submitted that the delay was neither intentional nor deliberate. Considering the explanation of the assessee, the delay in filing of the appeal is condoned.

3. The brief facts of the case are that the assessee had filed its return of income for the A.Y. 2018-19 on 11.10.2018 declaring total loss of Rs.37,84,22,186/-. The assessment was completed under Section 143(3) of the Act on 28.01.2021 at the returned loss. Subsequently, the case record was called for and examined by the Ld. PCIT. He found that the assessee has claimed deduction for exchange loss of Rs.28,72,73,150/- which was on account of repayment of foreign currency loan (ECB loss). According to the Ld. PCIT, the provisions of Section 43A of the Act was applicable to the present case and the liability on account of foreign exchange fluctuation was required to be adjusted with actual cost of the assets, for which the foreign currency loan was obtained. Further, the Ld. PCIT also observed that as per Accounting Standard-11 and ICDS-VI, the foreign fluctuation gains or loss was required to be recognised at each balance sheet date. Therefore, the assessee was not correct in claiming the exchange loss on entire foreign currency loan in one stretch in the current year. According to the Ld. PCIT, the liability due to foreign fluctuation pertaining to the current year was Rs.2,34,703/- only and, therefore, the deduction of Rs.28,72,73,150/- claimed by the assessee was not correct and also not in accordance with the Accounting Standards. Therefore, the Ld. PCIT held that the order of the Assessing

Officer was erroneous and prejudicial to the interest of the revenue and he set aside the assessment order with a direction to pass a fresh order after examining the facts of the case.

4. Aggrieved with the order of the Ld. PCIT, the assessee is in appeal before us. The following grounds have been taken in this appeal: -

- "1. On the facts and in the circumstances of the case and in law, Learned PCIT has erred in exercising the revisionary powers under section 263 of Act and setting aside the order passed by learned Assessing Officer (AO) under section 143(3) read with section 143(3A) and 143(3B) of the Act dated 28 March 2021.*
- 2. On the facts and in the circumstances of the case and in law, learned PCIT has erred in holding that the assessment order passed by Learned AO is erroneous as well as prejudicial to the interest of the Revenue.*

The Appellant craves leave to add, alter, amend or withdraw any of the above grounds at or before hearing of the appeal."

5. Shri Dhinal Shah, Ld. AR of the assessee, submitted that the assessee was a company incorporated as special purpose vehicle (SPV) for the purpose of four-laning of Hyderabad-Yadgiri Section of NH-202 from KM 18.60 to KM 54.00 in the State of Andhra Pradesh on Design, Build, Finance, Operate and Transfer (DBFOT) basis. The company had entered into concession agreement with National Highways Authority of India (NHAI) with a concession period of 23 years w.e.f. 24th February, 2010. The company had received provisional completion certificate dated 10.12.2012 from NHAI and the toll collection was commenced from the same date. The Ld. AR submitted that the claim of deduction for exchange loss of Rs.28,72,73,150/- was duly examined by the Assessing Officer in the course of assessment and, therefore, the Ld. PCIT was not correct in revising the order by invoking the provisions of Section 263 of the Act. He

submitted that the Assessing Officer had considered the explanation of the assessee and, thereafter, accepted the claim of deduction. The Ld. AR explained that the foreign currency loan was taken for the purpose of development of the project and the loan amount was not utilised for acquisition of any capital asset. Therefore, the provisions of Section 43A of the Act was not applicable. According to the Ld. AR, the provisions of Section 43AA of the Act was applicable in this case. Further, that the provisions of ICDS was made applicable w.e.f. A.Y. 2017-18 only. He submitted that the exchange difference arising on Long Term foreign currency monetary items relating to the acquisition of depreciable asset was adjusted from the cost of the assets only. In this regard, he has drawn our attention to Note-3 of Intangible Asset as appearing in Note to Financial Statement for the year ended 31.03.2018. The Ld. AR also relied upon the judgement of Hon'ble Supreme Court in the case of *Woodward Governor India (P.) Limited*, 179 Taxman 326 and certain other decisions in respect of the claim of the assessee.

6. Per contra, Shri R. P. Rastogi, Ld. CIT-DR submitted that the Assessing Officer had made a general query in the course of assessment proceeding and the real nature of the claim was not examined by him. He submitted that, even if the claim of the assessee was allowable, only foreign currency fluctuation loss pertaining to the current year was entitled for deduction and not the entire exchange loss for all the earlier periods in one stretch, on repayment of foreign currency loan. He submitted that the income for each assessment year had to be correctly computed and since the Assessing Officer did not examine this aspect, the order of the AO was certainly erroneous and prejudicial to the interest of the revenue. He, therefore, supported the order of the Ld. PCIT.

7. We have considered the rival submissions. The contention of the assessee is that the issue of deduction for exchange loss of Rs.28,72,73,150/- was duly examined by the Assessing Officer in the course of assessment. It is found that in the notice under Section 142(1) of the Act dated 09.11.2020, the Assessing Officer had made a query in respect of deductions claimed in Schedule BP of the ITR, which was as under: -

14. Please furnish details of “any other amount allowable as deduction” claimed in schedule BP of the ITR. Please furnish the detail, if the said item has been shown under any other head of income. Please justify your claim of deduction with supporting evidences.

7.1 The assessee vide reply dated 06.01.2021 had given the following break-up in respect of the deductions: -

“3. Details with respect to other deduction claimed in ‘Schedule BP’ of ITR:

Your kind attention is invited to raw-33 of ‘Schedule BP’ forming part of Return of Income wherein a deduction of INR 70,84,35,131 has been claimed as any other amount allowable as deduction. Relevant extract of ‘Schedule BP’ is reproduced hereunder for your ready reference:

33.	Any other amount allowable as deduction	33	708435131
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Details of such deduction are as under:

Sr. No.	Particulars of deduction	Amount (Rs.)	Remarks
1	Amortisation u/s.37 of the Act BOT-Intangible Assets (In terms of CBDT Circular No.9.2014 [F.No.225/182/2013/ITA.II], DATED 23.04.2014)	42,08,51,312	Explained in detail vide succeeding paragraphs
2	Actual loss on repayment of Foreign Currency Loan	28,72,73,150	Actual exchange loss on repayment of entire foreign currency loan in one stretch

	Outstanding US\$ 2,34,70,029* INR 12.24 (INR 64.80/US\$ - INR 52.56/US\$)		
3	Profit on Sale of Asset	1,38,884	Self-Explanatory
4	Preliminary Expenses written off	5,046	nature
5	Payment towards Provident Fund and ESIC deposited before the due date of filing Return of Income u/s.139(1) of the Act.	1,66,379	Claimed in terms of Supreme Court Judgement in case of Principal Commissioner of Income-tax, Jaipur v. Rajasthan State Beverages Corporation Ltd [2017] 84 taxmann.com 185 (SC) {Amount claimed on payment of PF and ESI having ben deposited on or before due date of filing of returns, same could not be disallowed under section 43B or under section 36(1)(va); SLP dismissed}
<i>Total</i>		70,84,35,131	

7.2 It is evident from the above reply that the assessee had claimed deduction of Rs.28,72,73,150/- in respect of loss on repayment of foreign currency loan. It was stated that “**Actual exchange loss on repayment of entire foreign currency loan in one stretch**” was claimed as deduction. No further explanation in this regard was given by the assessee and neither the Assessing Officer had made any further enquiry in respect of this deduction. The explanation of the assessee was

accepted by the Assessing Officer without examining as to whether the claim of the assessee was in accordance with the provisions of the Act.

7.3 The provisions of Section 43AA of the Act stipulates that any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss and such gain or loss shall be computed in accordance with the income computation of disclosure standards (ICDS) notified under sub-section (2) of Section 145 of the Act. The Assessing Officer was, therefore, required to examine as to whether the deduction for foreign exchange loss claimed by the assessee was in accordance with the Accounting Standard/ICDS, as notified. Rule-5 of ICDS-VI relating to the effects of changes in foreign exchange rates, stipulates as under: -

Recognition of Exchange Differences

5. (i) In respect of monetary items, exchange differences arising on the settlement thereof or on conversion thereof at last day of the previous year shall be recognised as income or as expense in that previous year.

(ii) In respect of non-monetary items, exchange differences arising on conversion thereof at the last day of the previous year shall not be recognised as income or as expense in that previous year.

7.4 It is thus evident that the exchange difference arising on settlement of foreign currency loan on last day of any previous year, was required to be recognised as income or expense in that previous year only. In other words, the foreign exchange loss/gain is required to be restated in the accounts of each previous year. As per AS-11 as well, all the foreign currency monetary items must be reported at the closing rate at every balance sheet date. In the present case, however, the assessee had claimed deduction for the foreign exchange loss on repayment of loan for the entire period in one stretch in the current year which was not in

accordance with the provisions of AS-11 as well as ICDS-VI. The Ld. PCIT had examined this issue and given a categorical finding that the foreign exchange fluctuation on recognition of loan pertaining to the current year was Rs.2,34,703.29 only, which was also not disputed by the assessee. Considering this fact, the action of the Assessing Officer in allowing the entire accumulated foreign exchange loss of Rs.28,72,92,351.35 (pertaining to the current year as well as to the earlier years), in the current year was not correct. As this aspect was not examined by the Assessing Officer, the assessment order was certainly erroneous and prejudicial to the interest of the revenue.

7.5 In the case of *Woodward Governor India (P.) Limited (supra)*, the Hon'ble Supreme Court had held that the outstanding liability relating to the import of raw material has to be reported using the closing rate of foreign exchange and the difference arising on conversion of this liability at closing rate has to be recognised in Profit & Loss account for the reporting period. This judgement rather supports the case of the Revenue. In view of the law as enunciated by the Hon'ble Supreme Court, the treatment given by the assessee for claiming the entire foreign currency loss in one stretch in the current year was not correct. In the case of *Wipro Finance Ltd. (137 taxmann.com 230 (SC))*, the Hon'ble Supreme Court had held that the loss incurred on repayment of foreign currency loan due to exchange fluctuation was an allowable deduction. However, the Hon'ble Supreme Court did not rule that that such exchange fluctuation loss for the earlier years also, should be allowed only at the time of settlement of loan; or that the provisions of AS-11 and ICDS-VI for accounting of such losses was to be ignored. The reliance placed by the assessee on the decision of Hon'ble Supreme Court in the case of *V-Con*

Integrated Solutions (P.) Limited, 173 taxmann.com 773 is also found to be misplaced. The Ld. PCIT did not remand the matter to the Assessing Officer in a mechanical manner but had given a categorical finding in the order u/s 263 of the Act that the fluctuation loss pertaining to the current year was Rs.2,34,703.29 only and in view of this fact the deduction for exchange fluctuation loss of Rs.28,72,92,351/- claimed by the assessee was not correct. The Ld. PCIT had set aside the matter only to allow an opportunity to the assessee, before passing the final order by the AO in accordance with the directions of the Ld. PCIT.

8. In view of the above facts and discussions, we do not find any merit in the grounds taken by the assessee. The Ld. PCIT had rightly held that the order of the Assessing Officer was erroneous and prejudicial to the interest of the revenue. Accordingly, the order of the Ld. PCIT is upheld and the appeal of the assessee is dismissed.

Order pronounced in the open Court on this 30 th October, 2025.
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Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 30th October, 2025

PBN/*

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

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad