Emec Pvt. Ltd. v. Commissioner of Income Tax-III, Kolkata

ITA 52/2012

ITA 52/2012 (2024-04-01) | 2024-04-01

Interest waiver: section 41(1) required an allowance or deduction in assessment, not merely a debit in accounts.

41(1) | 139(1) | 139(3) | 139(4) | 143(1)(a) | 143(3)

High Court at Calcutta | Division Bench | Justice Surya Prakash Kesarwani | Justice Rajarshi Bharadwaj

Assessment years: 2003-04

Scope of this order

Assessee succeeded against the disputed section 41(1) interest-waiver addition on the established assessment record.

01 FACTS OF THE CASE

Emec disputed taxation of Rs.23,52,984 interest waived in AY 2003–04. It had debited interest in AYs 1991–92, 1992–93 and 1993–94, but the belated loss returns did not yield an allowance or deduction and carry-forward was denied. After an earlier remand, CIT(A) accepted that factual position; the Tribunal reversed it on 29 December 2011 in ITA 1887/Kol/2008.

Source: PDF p. 3

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished a debit in the profit-and-loss account from an allowance or deduction in an assessment. Section 41(1) required the latter. The Tribunal had not displaced CIT(A)'s finding that the disputed interest had never been allowed. Applying Mahindra and Mahindra, the Court also discussed why the loan-waiver circumstances did not establish remission of a trading liability.

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03 JUDICIAL DECISION

The appeal was allowed, the Tribunal's order was set aside and CIT(A)'s order was restored. The substantial question was answered for the assessee.

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04 OUTCOME / IN WHOSE FAVOUR

Assessee succeeded against the disputed section 41(1) interest-waiver addition on the established assessment record.

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05 EXPERT COMMENTS

Reconcile the earlier assessments — The decisive enquiry is whether this expenditure was actually allowed or deducted in an assessment. A ledger debit alone does not prove that statutory condition. Equally, a loss or absence of immediate tax payment should not by itself be presented as proof that no deduction was allowed.

Keep the amounts and procedural stages separate — The disputed interest of Rs.23,52,984 is distinct from the total waiver of Rs.44,70,585 and the earlier assessment addition of Rs.29,31,698. The final holding should not be applied indiscriminately to those different figures.

Do not import another taxpayer's asset facts — The Kaiser Jeep acquisition facts reproduced from Mahindra and Mahindra belong to that precedent. They are not independent findings about Emec. Nor does this decision pronounce every loan waiver exempt under every charging provision.

Retain the source inconsistencies — The source reproduces loss-return wording under a printed section 143(3) label, although the relevant loss-return provision is discussed elsewhere; a quoted passage also prints Rs.23,52,987 against the operative Rs.23,52,984. The original remains available for those discrepancies.

Source: PDF p. 6

SOURCE & VERIFICATION

High Court at Calcutta source judgment/order

Complete 15-page source PDF; corrected note based on this document.

Complete source text and every original page visually reviewed; identity and SHA-256 checked. AI-assisted source analysis.

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All 15 physical source pages read and visually inspected. SHA-256: f21b000512165fb5f9a7d446b5607b6cce46112646e4c3d9668074f9be527da7.

STATUTORY SCOPE

The decision applies section 41(1) to the established assessment history. The note does not extend the conclusion to every loan waiver or to provisions not decided.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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