**HIGH COURT OF JUDICATURE FOR RAJASTHAN**
**BENCH AT JAIPUR**

D.B. Income Tax Appeal No. 7/2026

The Principal Commissioner Of Income Tax, (Central) Rajasthan, Room No. 402, 4Th Floor, Jeevan Nidhi-2, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.

----Appellant

Versus

Shree Hari Agro Industries Limited, 20,21 And 22 Old Industrial Area, Alwar 301001 (Pan/gir No. Aadcs7756H).

----Respondent

| | | |
|---|---|---|
| For Appellant(s) | : | Mr. Siddharth Bapna with<br>Mr. Rahul and<br>Ms. Tanuska Saxena |
| For Respondent(s) | : | |

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA**
**HON'BLE MR. JUSTICE BIPIN GUPTA**

**Judgment / Order**

**01/05/2026**

1. The questions of law proposed by the appellants are hereunder:-

*"(A) whether on the facts and in circumstances of the case and in law, Hon'ble ITAT has acted perversely in deleting the addition of Rs. 7,48,65,268/- made by the A.O u/s 28(iv) read with Section 41(1) of the Income Tax Act on ground of amount credited to capital reserve by writing off the loan by the assessee, without appreciating the fact that assessee could not establish the correlation that the loan funds which have been written off during the year were used by the assessee for acquisition of capital assets and no cash flow alongwith relevant bank statement evidencing the movement/utilization of fund*

*for making investment in acquisition of capital assets had bee produced by the assessee?*

*(B) The Appellant craves, leave or reserves the right to amend modify, alter add or forego any ground(s) of appeal at any time before or during the course of appellate proceeding."*

2. We noticed that the Income Tax Appellate Tribunal (hereinafter referred to as the 'ITAT') has factually examined in para 9 of its order with regard to the financial statements, which reflect the correlation between the loans financed by IIBI and IDBI with the investment in execution of fixed assets and is evidence from the table, which has been quoted by the ITAT, on the said basis, we reached to the factual findings that:-

*"From the perusal of the financial statements placed on record, we note that the correlation of loan borrowed from IRBI and IDBI with the investment in acquisition of fixed asset is evident from the following financial information avaliable position of Balance Sheet for these years is as under:-*

| Particulars | As on 31.3.1997 | As on 31.03.998 | As on 31.03.1999 |
|---|---|---|---|
| Share Capital | 406.38 | 515.35 | 578.35 |
| Secured loan<br>• from IDBI<br>• from IIBI<br>• from PNB<br>• from SBBJ<br>• Interest Accrued | <br>380.00<br>170.00<br>-<br>-<br>- | <br>425.00<br>325.00<br>98.61<br>82.38<br>- | <br>450.00<br>340.00<br>150.81<br>122.09<br>65.27 |
| Sub-total | 55.00 | 930.99 | 1128.17 |
| Unsecured Loan | - | - | - |
| **Total** | **956.38** | **1441.34** | **1853.24** |
| Fixed Assets less Depreciation | 949.23 | 1139.32 | 1098.40 |
| Net Current Assets & debit balance of profit & loss A/c | 7.15 | 302.02 | 754.84 |
| **Total** | **956.38** | **1441.34** | **1853.24** |

*Thus when the nexus of loan borrowed with its utilization in acquisition of fixed asset is evident from the Balance Sheet, only because assessee could not furnish the bank statement to prove the nexus of borrowed funds with its utilization in fixed asset is not relevant particularly when the Balance Sheets are duly audited. Also the fact that the secured loans has been utlized in incurring the capital expenditure is evident from the Director's Report of F.Y. 1996-97 where it is stated that the means of finance of the project which initially included Public issue of Rs. 325 lacs had to be reviewed in the context of prevaling depressed Capital Market condition. With the concurrence of Industrial Development Bank of India (IDBI) the means of finance was changed on the basis of Debt Equity Ratio. Consequently, the promoters contribution increased to Rs. 515 lacs and the Institutional Term Loan was increased to Rs. 790 lacs. IDBI having already sanctioned Term loan of Rs. 450 lacs, balance 340 lacs was sanctioned by Industrial Investment Bank of India (lIBl). The Company had so far availed Rs. 380 lacs from IDBI and Rs. 280 lacs from lIBl. As on date paid up Equity Capital amounted to rs. 4,36,57,90/-. Arrangment for working capital was finalised with Punjab National Bank (PNB) and the State Bank of Saurashtra, Jaipur. They agreed to provide Fund based Working Capital to the extent of Rs. 530 lacs and non-fund based Rs. 15 lacs under consortium arrangment. During the period under review, since the project was under implantation and commercial production was yet to commence, no Profit & Loss account has been prepared. Also in the Director's Report of F.Y. 1997-98 it is stated that commercial production in the refinery section started on 11.06.1997 whereas Solvent Extraction plant started on 01.07.1997. Thus it proves beyond that waiver of loan taken from IRBI of Rs. 164* *lacs and by Deepak Vegpro Pvt. Ltd. Of Rs. 315 lacs. Which was assigned to it through M/s. Stressed Assets Stabilization Fund is for acquisition of capital asset not chargeable to tax u/s. 41 (1) if the Act and* ***therefore, addition to extent of Rs. 480 lacs confirmed by Ld. CIT (A) is deleted.***

*10. We further find that during F.Y. 2007-08 & 2008-09 assessee made expansion & renovation of the existing plant for which it raised unsecured loan of Rs. 285 lacs from M/s Deepak Vegpro Pvt. Ltd. apart from Rs. 50.81 lacs received earlier from M/s Kedarnath Ravindra Kumar HUF, Anita Agarwal, Shree Hari Industries and Varsha Trading Co. The total of these loans is Rs. 335.81 lacs. The utilization in fixed asset during F.Y. 2007-08 & 2008-09 was of Rs. 528.80 lacs as per the following information available in the Balance Sheet:-*

*(Amount in Rs.)*

| **Particulars** | **2007-08** | **2008-09** | **Total** |
|---|---|---|---|
| Building | 26,34,708 | 66,76,755 | 93,11,463 |
| P&M | 42,74,512 | 3,84,33,284 | 4,30,07,796 |
| Computers | 1,18,752 | 82,000 | 2,00,752 |
| Office Equipment | 0 | 1,69,378 | 1,69,378 |
| Furniture & Fixtures | 7,500 | 1,41,299 | 1,48,799 |
| Vehicle | 0 | 42,115 | 42,115 |
| Capital WIP | 1,05,68,069 | -1,05,68,069 | 0 |
| **Total** | **1,76,03,541** | **3,52,76,762** | **5,28,80,303** |

*The utilization of the above unsecured loans in acquisition of fixed asset is supported by the cash flow statement furnished by the assessee who has incorrectly been not considered by the Ld. CIT (A) as these are not additional evidences but the information extracted from the Balance Sheet available on record. Therefore, waiver of 80% of the unsecured loan amount of Rs. 335.82 lacs, i.e. Rs. 268.65 lacs is also for acquisition of capital asset which is not taxable* *u/s. 41 (1) of the Act.* ***Hence the addition of Rs. 268.65 lacs confirmed by Ld. CIT (A) is deleted."***

3. In view of the above, no substantial question of law arises for adjudication as the ITAT has passed the order on purely factual findings.

4. The appeal is accordingly dismissed for there being no substantial question of law.

(BIPIN GUPTA),J (SANJEEV PRAKASH SHARMA), ACTING CJ

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