IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SHAMIM AHMED

Tax Case (Appeal) Nos. 1994 & 1995 of 2008

M/s Pioneer Asia Industries Pvt Ltd
(Formerly Asia Glues & Chemicals Ltd.)
No 23 Vallabhai Road,
Chokkukulam,
Madurai 625 007.

..Petitioner in both cases

Vs

The Assistant Commissioner of Income Tax,
Central Circle,
Madurai. … Respondent in both cases

COMMON PRAYER: Tax Case (Appeals) are filed under Section 260A of the Income-Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai "C" Bench, dated 23.09.2005 made in ITA No.1095/Mds/2002 and ITA No.1401/Mds/2002 for the Assessment Year 1995-96.

In both cases

For Petitioner: Mr.A.S.Sriraman

For Respondent: Mrs.V.Pushpa
Standing Counsel For Respondent

COMMON JUDGMENT

(Order of the Court was made by Dr.G.Jayachandran J.)

These Tax Case (Appeals) are preferred against the common order of the Income Tax Appellate Tribunal, Madras, passed in ITA.Nos.1095/Mds/2002 (Appeal by the Assessee) and 1401/Mds/2002 (Appeal by the Department) for the Assessment Year 1995-96.

2. The assessee company, M/s.Asia Glues and Chemicals (P) Ltd., which is engaged in manufacturing, mining and finance activities at various places filed its return of income for the Assessment Year 1995-96. This return was initially processed under Section 143(1)(a) and subsequently taken up for scrutiny after due notice.

3. The contentions are the disallowance of expenditure regarding (i) foreign travel expenses of the assessee company's Directors; (ii) fumigation charges for the inspection of the imported timber; and (iii) differential interest on loans advanced.

4. The Assessing Officer (AO) passed an order

(a) disallowing the deduction claimed for the Directors foreign tour, holding that the expenditure debited profit and loss (P&L) account did not relate with the sales reported therein. The AO further observed that the new business, in connection with which the expenses were incurred, only commenced in the subsequent year; thus the expenses could not be charged to the P&L account for the current year.

(b) Regarding the fumigation charges as expenditure of the year, the Assessing Officer held that the liability crystallised only on the Department's letter dated 05.08.1994. Though a Court order in favour of the Department has been passed as early as on 23.02.1994, it was not implemented during the accounting year 1993-94. The Assessing Officer has observed that unless a demand is raised by the Department, the assessee is not obligated to make the payment. Accordingly, he treated the date of the demand as the point at which the expenditure arose and held that the fumigation charges did not pertain to the relevant assessment year. However, this issue was decided in favour of the assessee.

(c) Insofar as the addition on differential interest in respect of borrowings by the assessee company and the losses incurred by its subsidiary/group of companies are concerned, the Assessing Officer has held that the interest cannot be considered to reduce the portion of interest paid by the assessee since admittedly the deposit to the concern itself is not out of borrowed funds, but out of entirely different source of receipt of i.e., sale proceeds of shares of M/s. Tamil Nadu Mercantile Bank Limited. Holding so, the interest due of the assessee company from on its subsidiary group of companies was added to the income under other source. The assessment order was challenged before the

Appellate Authority both by the assessee as well as the Department.

5. The Appellate Authority, vide order dated 26.04.2002, held as follows:

(i) Foreign Travel Expenses: Regarding the foreign visit of two Directors to Denmark, the Appellate Authority found that the visit was undertaken for business purpose and was expected to an increased income. Therefore, the Assessing Officer was directed to allow the claim of deduction of Rs.2,26,477/-.

(ii) Fumigation Charges: In respect of the fumigation charges, the Appellate Authority held that the liability towards the differential inspection fee crystallised only on the communication dated 05.08.1994. Since the payment of Rs.1,21,340/- was made in the subsequent previous year relevant to the assessment year 1995-96, the claim made for the earlier year was not sustainable. Thus, the order of the Assessing Officer disallowing the said deduction was upheld.

(iii) Differential Interest: With regard to the difference in interest received, the Appellate Authority directed the Assessing Officer to modify the assessment in accordance with the principles laid down by the Hon'ble Supreme Court in ***Upper India Publishing House (P) Ltd***., ***(1979) 117 ITR 569 (SC)*** and in the judgment of the Bombay High Court in the case of ***Hindustan Conductors Pvt.Ltd.***, ***(1999) 240 ITR 762.***

Applying the said principles, the Appellate Authority held that credit ought to have given to the extent of Rs.3.50 lakhs, being the excess claim payment of interest, are disallowance in place of Rs.19,03,881/-. Consequently, the addition was restricted to Rs.4,21,788/- and the assessment order was modified accordingly.

6. This order was subject matter of appeal before the Income Tax Appellate Tribunal preferred both by the assessee as well as Revenue. For all these issues, the Tribunal observed that the assessee had not placed any material on record to establish that the foreign tour undertaken by the Directors resulted in procurement of business in the subsequent year.

7. Similarly in respect of the differential interest, the Tribunal held that the assessee had failed to produce the relevant details for the subsequent year to substantiate its claim. The assessee's decision to forego the interest is based on the oral submissions and no records were produced.

8. However, the learned counsel for the appellant claims that same is factually erroneous. In fact, these records were presented to the CIT (A) and were partially considered in favour of the assessee by the Appellate Authority. He submitted that the first Appellate Authority correctly considered the claim of expenses when computing the taxable total income. However, the Tribunal failed to appreciate those evidence.

9. In respect of fumigation charges, the demand was the subject of a writ petition, till the decision rendered by the Court, the demand remained only a contingent expenditure. The liability crystallised only after final notice on 05.08.1994. Hence, applying Section 43(CD) of the Income Tax Act, the liability is only on payment of the demand, rather than being construed on accrual basis.

10. Regarding the computation of differential interest, he submitted that the materials placed before the authorities during the assessment and the appeal substantiate the assessee's claim. The addition made by the Assessing Officer is improper. The computation of the difference of interest between actual and notional interest contradicts the facts placed by the assessee by way of statement of annual accounts. These accounts clearly disclose that the assessee possessed independent sources of funds to lend money to its subsidiary companies.

11. On considering the above submissions made by the learned counsel for the appellant and the response of the departmental counsel, we find that the Tribunal, being the last forum for fact finding, ought to have considered the materials placed before it in a holistic manner and given a finding based on the records.

12. Unfortunately, we find that though there are materials available on record to support the claim of the assessee, they were not only ignored, but the Tribunal had recorded that no such records were placed by the assessee for consideration. This tantamount to a non-application of mind and an improper examination of the record, which have a serious bearing on the facts of the case.

13. Therefore, without recording any specific finding on the substantial questions of law, we remand the matter back to the Tribunal to reconsider the grounds of appeal in the light of the materials produced by the assessee for appreciation. This exercise of re-appreciating the grounds of appeal should preferably be completed within a period of six months from the date of receipt of a copy of this order.

14. With the above directions, these Tax Case (Appeals) are disposed of. No costs.

(G.J.,J.) (S.S.A.,J.)
22-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

rpl

To
The Assistant Commissioner of Income Tax,
Central Circle, Madurai.

DR.G.JAYACHANDRAN J.
and
SHAMIM AHMED J.

rpl

Tax Case (Appeal) Nos. 1994 & 1995 of 2008

22-04-2026