

आयकर अपीलीय अधिकरण ,इन्दौर न्यायपीठ ,इन्दौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
INDORE BENCH, INDORE**

श्री सी. एम. गर्ग, न्यायिक सदस्य

तथा

श्री ओ.पी.मीना ,लेखा सदस्य के समक्ष

**BEFORE SHRI C.M. GARG, JUDICIAL MEMBER  
AND  
SHRI O.P. MEENA, ACCOUNTANT MEMBER**

आ.अ.सं /I.T.A. No.816/Ind/2014	
निर्धारण वर्ष/ <b>Assessment Year:2011-12</b>	
<b>M/s. C.K. Cotspin Pvt. Ltd. Badrapur Road Chowk Bazar, Burhanpur (MP)</b>	<b>vs. DCIT Khandwa</b>
<b>अपीलार्थी /Appellant</b>	<b>प्रत्यर्थी /Respondent</b>
स्था.ले.सं./PAN: <b>AAECC 2503 P</b>	
<b>अपीलार्थी की ओर से/Appellant by</b>	<b>Shri S. N. Agarwal, CA Shri Pankaj Mogra CA</b>
<b>प्रत्यर्थी की ओर से/Respondent by</b>	<b>Shri Mohd. Javed, D.R.</b>
<b>सुनवाई की तारीख/Date of hearing</b>	<b>22.02.2017</b>
<b>उद्घोषणा की तारीख/ Date of pronouncement</b>	<b>28.02.2017</b>

**आदेश /O R D E R**

**PER O.P. MEENA, ACCOUTANT MEMEBR.**

This appeal by the assessee is directed against the order of learned Commissioner of Income tax (Appeals)-II, Indore [in

short CIT (A)] dated 31.10.2014 for the Assessment Year 2011-12 on following grounds:

- 1.1. That on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in confirming the disallowance as made by the AO of Rs. 21,94,522/-out of interest paid by holding that assessee has diverted its interest bearing funds without interest, without properly appreciating the facts of the case and submission made before him.*
- 1.2. That on the facts and in the circumstances of the case, the Ld. CIT (A) erred in maintaining the addition, made on account of interest paid by holding that the assessee has not offered interest income even when interest was credited in the account of the assessee by the parties to whom advances were given by it without properly appreciating the facts of the case and submission made before him.*
- 2. That on the facts and in the circumstances of the case, the Learned CIT(A) erred in confirming the adhoc disallowance to the extent of Rs. 1,00,000/-out of cash discount expenses without properly appreciating the facts of the case and submission made before him.*

**1.0. The ground no.1 is relates to confirmation of disallowance of interest of Rs. 21,94,522/-**

**1.1.** Succinctly, facts as culled out from the orders of lower authorities are that the assessee was a partnership firm who had converted in Pvt. Ltd. during the previous year relevant to assessment year under consideration. The assessee company derives income from trading of F.P

Bales, purchase and sale of Cotton seeds and all type of grains. The return of income was filed on 30.09.2011 declaring total income of Rs.31,42,300/-. The AO found that the assessee has advanced interest bearing funds to some of persons from which either no interest is charged or the same is charged at lesser rate whereas the assessee has paid interest @ 12% on loan taken. The AO therefore, worked out disallowance of interest as detailed below:

Name of the concern	Period in days	Interest @12%	Interest @9%	Less interest charged
1.M/s. C.K. Investment & Consultancy	111	5,47,397	Not charged	5,47,397
2.Pramesh Shah HUF	111	7,298	Not charged	7,298
3.M/s. Resurgent India Ltd.	97	15,945	Not charged	15,945
4. M/s. Saibab Cotton Industries	111	1,09,795	Not charged	1,09,795
5.m/s Shriram Kela Agencies	111	1,13,944	Not charged	1,13,944
6. Shubham Kela Agency	111	1,60,248	Not charged	1,60,248
7.M/s Sweta Enterprise	111	18,247	Not charged	18,247
8.Smt Sudha Anil Garg	111	22,540	Not charged	22,540

9.M/s. Metalore Overseas	111	5,56,434	3,42,326	2,14,108
Total interest disallowed				21,94,522

**1.1.1.** Accordingly, the AO disallowed the interest of Rs. 21,94,522/- by observing that the assessee has diverted interest bearing funds for advancing the same without interest.

**1.2.** Being, aggrieved the assessee filed an appeal before the ld. CIT (A) wherein detailed submission were filed which has been reproduced by the ld. CIT (A) in his order. However, the ld. CIT (A) confirmed the action of the AO by observing that the claim of the appellant that it had substantial own funds has, not been, substantiated, with corroborating evidences. on the basis of findings given by him in the case of the assessee firm for the part period before the conversion of the firm in to Pvt. Ltd. of which findings were reproduced by the CIT(A) is his order under appeal. Accordingly, the Ld. CIT (A) echoed the findings of the AO.

**1.3.** Being, aggrieved the assessee filed this appeal before the Tribunal. The Ld. A.R. submitted that the AO has

disallowed interest in respect of deposits given to following parties:-

Name of the Concern	Amount outstanding as on 31.03.2011	Interest disallowed @12%
1.M/s. C.K. Investment & Consultancy	1,50,00,000	5,47,397
2.Pramesh Shah HUF	2,00,000	7,298
3.M/s. Resurgent India Ltd.	5,00,000	15,945
4. M/s. Saibab Cotton Industries	3,00,00,000 (however, cheque given by said party has been returned back as un- cleared and said amount of Rs. 3 crore again reflected in erstwhile company	10,94,795
5.M/s Shri Ram Kela Agencies	31,22,346	1,13,944
6. Shubham Kela Agency	43,91,167	1,60,248
7.M/s Sweta Enterprise	5,00,000	18,247
8.Smt Sudha Anil Garg	6,17,654	22,540
9. M/s. Metalore Overseas	31,59,498	2,14,108
Total interest disallowed		21,94,522

**1.3.1.** The Ld. A.R. submitted that the assessee has advanced funds to all the said parties but due to dispute with the said parties, the assessee was not able to even recover the principal amount back which were advanced

earlier. Therefore, the assessee has not offered the interest income on this account. The Ld. A.R. filed copy of accounts of above parties appearing at page No. 50 to 76 of the Paper Book which were also filed before the Ld. AO. It was submitted that the perusal of copy of account would show that the assessee has debited interest amount in the account of these parties but the assessee has failed to realize the principal and interest from these parties. It was submitted that the even the principal amount of advance given to above parties was doubtful of recovery, it was for this reason, the assessee has not offered any interest recoverable from these parties. Therefore, it was argued that disallowance of interest out of interest paid is not justified when the assessee has not received that interest during the year. In support of his contention, the Ld. A.R. relied in the case of M/s. Maruti Securities Ltd. vs. Addl CIT in I.T.A. No. 468/Hyd/2009nnd 1939/Hyd/2011 for the assessment year 2005-06 of ITAT Hyderabad, wherein it was held that the interest income has been recognized in the books of accounts only to the extent of actual collection, which is the recommended/recognized method

as per Accounting Standard 9 of ICAI. The ld. A.R. also quoted the relevant para of the order which is as under:

*“21. We have considered the rival submissions and perused the impugned orders of the Revenue authorities and other material on record. We have also gone through the written submissions filed and the decisions relied upon by the parties before us. We are of the opinion that to arrive at a real income, accrual basis cannot be a justifying factor and the commercial and business realities of the assessee, should be considered. The interest income has been recognized in the books of accounts only to the extent of actual collection, which is the recommended/ recognized method as per Accounting Standard 9 of ICAI which lays down that when uncertainties exist regarding the determination of the amount or its collectability, the revenue shall not be treated as accrued and hence shall not be recognized until collection. The recognition of revenue on accrual basis presupposes the satisfaction of two conditions-*

*(a) The revenue is measurable*

*(b) The revenue is collectable with certainty.*

*The interest income has been admittedly recognised only on receipt basis. The contention of the revenue that the loan agreements have interest clause permitting the assessee to charge interest at the rate of 14% is not tenable. The terms of the agreements, which enabled the assessee company to demand interest were only enabling provisions and those enabling provisions did not guarantee the collection of overdue interest. They only gave a cause of action to the applicant.*

*22. The method of accounting, as followed by the assessee, does not create any income; but the method of accounting only recognizes income. There is some merit in the submission of the assessee that when the principal itself is overdue and not collected, there is no*

*basis for making out a case that interest income would be collectable with certainty. Even where an assessee is following the mercantile system of accounting, it is only accrual of real income which is chargeable to tax, that accrual is a matter to be decided on commercial belief having regard to the nature of business of the assessee and character of the transaction. Accordingly, for the purpose of determining whether there has been accrual of real income or not, recourse is to be made to ascertain the nature of business and character of the transaction and the realities and peculiarities of the situations. The decision very heavily relied upon by the first appellate authority in the case of State Bank of Travancore Vs CIT (1986) 158 ITR 102 was subsequently overruled in its land mark decision in the case of UCO Bank Vs CIT 237 ITR 889. In this regard, we place reliance on the ratio laid down by various judicial authorities on the proposition that the income cannot be taxed on hypothetical basis, and it is only the real income that is to be brought to tax. In this behalf, we also rely, giving below summary of the ratio laid down, on the following decisions*

*a) CIT vs. Godhra Electricity Co. 225 ITR 746 (SC),*

*The view expressed was that if income does not result at all, there cannot be any tax and that if an income has not materialized, then merely an entry made about a hypothetical income by following book keeping methods, the liability to tax cannot be attracted.*

*b) Andhra bank(225 ITR 447)(SC):*

*It was held, that there cannot be a tax if no income resulted, despite the entry in the book keeping. The case deals with s. 148. Assessee changed method of accounting from AY 1960 onwards. But during AY 1963-64, the AO objected the change and reopened assessments for AY 1960 onwards. Apex court held that this amounts to change of opinion and re-assessment is not valid.*

*23. Further, the learned counsel for the assessee relied on the decision of the Hon'ble Supreme Court CIT vs. Excel Industries Ltd. & Ors. (358 ITR 295) and submitted that going by the accounting standard though the revenue is collectible by certainty, the assessee in the present case, in fact, had not received any interest and hence, interest in question remained only notional interest. As canvassed by the learned counsel for the assessee, some of the parties did not repay even the principal amount and some of the parties settled the accounts by paying some interest and hence, we agree that computation of notional interest at 14% on all the advances and making additions on that basis to the income of the assessee, is not justified.”*

**1.3.2.** The Ld. A.R. further placed reliance on the decision of Hon`ble Delhi High Court in the case of CIT vs. M/s. Vasisth ChayVyapar Ltd. in I.T.A. No. 552 of 2005 dtd. 29.11.2010, wherein it was held that where the assessee company being NBFC is governed by the provisions of RBI Act, in such case interest income cannot be said to have accrued having regards to the entity provision of section 45Q of RBI and Prudential Norms issued by the RBI and where interest was not received and possibility of recovery was almost nil, it could not be treated to have been accrued in favour of the assessee.

**1.3.3.** The Ld. A.R. submitted that on the facts of the case as the assessee has substantial interest-free funds of Rs. 17,20,03,330/-(consisting of share capital of Rs. 1,79,50,000/-, reserves and surplus of Rs.8,76,95,856/- and unsecured interest free loan from directors/ shareholders of Rs.6,63,57,474/-) as on 31.03.2011 as against total interest bearing funds of Rs. 9,35,48,034/- mainly borrowed from SBI Indore. The interest bearing funds were utilized towards the objects for which the said loan was taken by the firm for business purposes. Accordingly, the Ld. A.R. contended that the assessee has not diverted its interest bearing funds for non business purposes. The Ld. A.R. further submitted that above facts of the case shows that advances to all the seven parties as mentioned in assessment order from whom interest was not charged or charged at the lesser rate was given out of interest-free funds available with it.

**1.3.4.** The Ld. A.R. relying on the decision of Hon`ble Supreme Court in the case of S.A. Builders vs. CIT (2007) 288 ITR 1(SC) contended that the onus on the revenue to show that interest bearing fund alone were invested in

investment on which no income was earned. The Ld. A.R. further relied on the decision of Hon`ble Supreme Court in the case Munjal Sales Corporation vs. CIT (2008) 298 ITR 298 (SC) wherein it was held that where assessee had sufficient profits in the current year then interest free advances can be considered flowing from such profits.

**1.3.5.** The Ld. A.R. also place reliance on the judgement of Hon`ble Bombay High Court in the case of CIT vs. Reliance Utilities & Power Ltd. (2009) 313 ITR 340 (Bom) wherein it was held that if there are fund available both interest free and interest bearing, then a presumption would arise that investment were out of interest free funds generated or available with the assessee. If the interest-free funds were sufficient to meet the investment no disallowance of interest paid on borrowed funds would be necessary. Once such presumption is established claim of interest was allowable.

**1.3.6.** The Ld. A.R. also placed reliance on the judgement of Hon`ble Supreme Court in the case of S. A. Builders vs. CIT (2007) (288 ITR 1) (SC) wherein it was held that where the assessee has made investment out of mixed

funds for the commercial expediency then no disallowance could be made under section 36 (1) (iii) of the Act.

**1.3.7.** The Ld. A.R. further placed reliance on following judgement : CIT vs. Hero Cycles Ltd. (2010) 323 ITR 518 (P&H) wherein it was held that no disallowance out of interest payment is permissible if AO does not establish nexus between the expenditure incurred and income generated. The Ld. A.R. submitted that in the present case the AO has failed to establish that the assessee had diverted interest bearing funds for non business purposes or advanced the same without interest. When the assessee has utilized the interest bearing funds for business purpose and justified the same , then no disallowance of interest can be made.

**1.3.8.** The Ld. A.R. further cited following judicial pronouncements in support of his contention as follows: Ram Kishan Oil Mills vs. CIT 56 ITR 186 (MP), Birla Gwalior Pvt. Ltd. vs. CIT 44 ITR 847(MP), D & H Secheron Electrodes Ltd. 142 ITR 529 (MP), Regal Theatre vs. CIT 225 ITR 205(Del), Sarvodya Kela Group vs. ITO 25 ITJ

409(Indore-Trib), and others as per his written submissions.

**1.4.** On the other hand, the Ld. D.R. relying on the orders of lower authorities submitted that the assessee is not able to substantiate that interest free advances were given out of interest-free funds available with the assessee, hence, finding of the AO/ld. CIT (A) may be upheld.

**1.5.** We have heard the rival submissions of both the parties and have perused the material available on record. We find that the ld. A.O. has failed to establish that the assessee has received any interest from the above seven parties during the year under consideration and the interest free advances to above stated seven parties were out of interest bearing funds. It is the contention of the assessee that it had sufficient non-interest bearing funds to the tune of Rs. 10.11 crores as on 31.03.2011, which inter-alia included share capital of Rs.1.79 crores, reserves and surplus of Rs.8.76 crores and unsecured loan from directors/shareholders without interest of Rs. Rs. 6.63 crores as against interest bearing funds of Rs.9.35 crores. The ld. A. R. contended that the assessee had

utilised these funds for giving interest-free advances to aforesaid parties on which no interest was shown by the assessee as the principal amount was not received from M/s. Shubham Kela Agency, M/s. Ram Kela Agency and M/s. Saibaba Cotton Industries have shown to have paid interest to the assessee We find that as per books of accounts of the assessee , the assessee has not received any interest during the year under consideration even though interest received in A.Y. 2010-11 by the firm before conversion in company was duly shown by the assessee as its income. It is the contention of the assessee that the assessee has debited interest in to account of these parties but failed to realize the said interest from these parties hence, it was not offered to tax. It was noticed that the assessee was not able to even receive principal amount from these parties and cheques issued could not be realized. In view of this matter, we are of the view that interest income has been recognized in the books of accounts only to the extent of actual collection, which is the method recognized as per Accounting Standard 9 of ICAI. The Ld. A.R. also relied in the case of Maruti

Securities Ltd. vs. Addl CIT (I.T.A. No. 468/Hyd/2009 and 1939/Hyd/2011 for the assessment year 2005-06 dtd. 05.09.2014 wherein para 22 is reads as under:

*22. The method of accounting, as followed by the assessee, does not create any income; but the method of accounting only recognizes income. There is some merit in the submission of the assessee that when the principal itself is overdue and not collected, there is no basis for making out a case that interest income would be collectable with certainty. Even where an assessee is following the mercantile system of accounting, it is only accrual of real income which is chargeable to tax, that accrual is a matter to be decided on commercial belief having regard to the nature of business of the assessee and character of the transaction. Accordingly, for the purpose of determining whether there has been accrual of real income or not, recourse is to be made to ascertain the nature of business and character of the transaction and the realities and peculiarities of the situations. The decision very heavily relied upon by the first appellate authority in the case of State Bank of Travancore Vs CIT (1986) 158 ITR 102 was subsequently overruled in its land mark decision in the case of UCO Bank Vs CIT 237 ITR 889. In this regard, we place reliance on the ratio laid down by various judicial authorities on the proposition that the income cannot be taxed on hypothetical basis, and it is only the real income that is to be brought to tax. In this behalf, we also rely, giving below summary of the ratio laid down, on the following decisions*

*a) CIT vs. Godhra Electricity Co. 225 ITR 746 (SC),*

*The view expressed was that if income does not result at all, there cannot be any tax and that if an income has not materialized, then merely an entry made about a hypothetical income by following book keeping methods, the liability to tax cannot be attracted.*

*b) Andhra bank(225 ITR 447)(SC):*

*It was held, that there cannot be a tax if no income resulted, despite the entry in the book keeping. The case*

*deals with s. 148. Assessee changed method of accounting from AY 1960 onwards. But during AY 1963-64, the AO objected the change and reopened assessments for AY 1960 onwards. Apex court held that this amounts to change of opinion and re-assessment is not valid.*

**1.5.1.** Therefore, in the light of finding of coordinated bench mentioned as above, we are of the view that when no interest is received same cannot be taxed on notional basis.

**1.5.2.** We further find that the Hon`ble Supreme Court in the case of CIT vs. Excel Industries Ltd. 358 ITR 295 (SC had held as under

*“that going by the accounting standard though the revenue is collectible by certainty, the assessee in the present case, in fact, had not received any interest and hence, interest in question remained only notional interest. As canvassed by the learned counsel for the assessee, some of the parties did not repay even the principal amount and some of the parties settled the accounts by paying some interest and hence, we agree that computation of notional interest at 14% on all the advances and making additions on that basis to the income of the assessee, is not justified.”*

**1.5.3.** In view of above, relying on decision of Apex Court as referred to above, we are of the view the when interest income is not realized or collected , same cannot be taxed on notional basis. We further find to the AO has

also not taxed the interest income credited by the above mentioned parties in their books of accounts, but disallowance of interest has been made on the basis of diversion of interest bearing funds to non-business purposes. However, we find that the Ld. A.R. has fully demonstrated that the interest-free advance were given out of interest-free funds available with the assessee during the assessment year 2010-11 by the firm and during assessment year under consideration for which interest-free funds of Rs.17.20 crores [ Rs. 1.79 crore + Rs. 8.76 crore+ 6.63 crore ] as mentioned in above paras of this order, as against interest bearing funds of Rs. 9.35 crores. The Ld. A.R. also placed reliance on the judgement of Hon`ble Supreme Court in the case of S. A. Builders vs. CIT (2007) (288 ITR 1) (SC) wherein it was held that where the assessee has made investment out of mixed funds for the commercial expediency then no disallowance could be made under section 36 (1) (iii) of the Act. We find that the AO has not been able to establish the nexus between interest bearing funds utilized for non business purpose as held in above quoted decision of Hon`ble Supreme Court.

The Id. A. R. has placed reliance in the case of CIT vs. Reliance Utilities & Power Ltd. (2009)313 ITR 340(Bom)/178 Taxman 135 (Bom) wherein it was held that if there was funds available both, interest-free and overdraft and or/loans taken, then a presumption would arise that investments would be out of the interest-free funds generated or available with the company, if the interest free funds were sufficient to meet the investments. In the present case, there sufficient interest free funds were available at the disposal of the assessee. We further find support from decision in the case of CIT vs. Hero Cycles Ltd. (2015) 379 ITR 347(SC)/63 taxmann.com 308 (SC)/(2016) 236 Taxman 447 (SC)wherein it was held as under:

*11. We are of the opinion that such an approach is clearly faulty in law and cannot be countenanced.*

*12. Insofar as loans to the sister concern/subsidiary company are concerned, law in this behalf is recapitulated by this Court in the case of S.A. Builders Ltd. v. CIT (Appeals) [\[2007 \(288\) ITR 1/158 Taxman 74\]](#). After taking note of and discussing on the scope of commercial expediency, the Court summed up the legal position in the following manner:—*

*'26. The expression "commercial expediency" is an expression of wide import and includes such expenditure as a prudent businessman incurs for the purpose of business. The expenditure may not have been incurred under any legal obligation, but yet it is*

*allowable as a business expenditure if it was incurred on grounds of commercial expediency.*

27. No doubt, as held in *Madhav Prasad Jatia v. CIT* [[1979 \(118\) ITR 200 \(SC\)](#)], if the borrowed amount was donated for some sentimental or personal reasons and not on the ground of commercial expediency, the interest thereon could not have been allowed under section 36(1)(iii) of the Act. In *Madhav Prasad's case* [[1979 \(118\) ITR 200 \(SC\)](#)], the borrowed amount was donated to a college with a view to commemorate the memory of the assessee's deceased husband after whom the college was to be named, it was held by this court that the interest on the borrowed fund in such a case could not be allowed, as it could not be said that it was for commercial expediency.

28. Thus, the ratio of *Madhav Prasad Jatia's case* [[1979 \(118\) ITR 200 \(SC\)](#)] is that the borrowed fund advanced to a third party should be for commercial expediency if it is sought to be allowed under section 36(1)(iii) of the Act.

29. In the present case, neither the High Court nor the Tribunal nor other authorities have examined whether the amount advanced to the sister concern was by way of commercial expediency.

30. It has been repeatedly held by this court that the expression "for the purpose of business" is wider in scope than the expression "for the purpose of earning profits" vide *CIT v. Malayalam Plantations Ltd.* [[1964 53 ITR 140 \(SC\)](#)], *CIT v. Birla Cotton Spinning and Weaving Mills Ltd.* [[1971 82 ITR 166 \(SC\)](#)], etc.'

**13.** In the process, the Court also agreed that the view taken by the Delhi High Court in *CIT v. Dalmia Cement (P) Ltd.* [[2002\] 254 ITR 377/ 121 Taxman 706](#) wherein the High Court had held that once it is established that there is nexus between the expenditure and the purpose of business (which need not necessarily be the business of the assessee itself), the Revenue cannot justifiably claim to put itself in the arm-chair of the businessman or in the position of the Board of

*Directors and assume the role to decide how much is reasonable expenditure having regard to the circumstances of the case. It further held that no businessman can be compelled to maximize his profit and that the income tax authorities must put themselves in the shoes of the assessee and see how a prudent businessman would act. The authorities must not look at the matter from their own view point but that of a prudent businessman.*

**14.** *Applying the aforesaid ratio to the facts of this case as already noted above, it is manifest that the advance to M/s. Hero Fibres Limited became imperative as a business expediency in view of the undertaking given to the financial institutions by the assessee to the effect that it would provide additional margin to M/s. Hero Fibres Limited to meet the working capital for meeting any cash loses.*

**15.** *It would also be significant to mention at this stage that, subsequently, the assessee company had off-loaded its share holding in the said M/s. Hero Fibres Limited to various companies of Oswal Group and at that time, the assessee company not only refunded back the entire loan given to M/s. Hero Fibres Limited by the assessee but this was refunded with interest. In the year in which the aforesaid interest was received, same was shown as income and offered for tax.*

**16.** *Insofar as the loans to Directors are concerned, it could not be disputed by the Revenue that the assessee had a credit balance in the Bank account when the said advance of Rs. 34 lakhs was given. Remarkably, as observed by the CIT (Appeal) in his order, the company had reserve/surplus to the tune of almost 15 crores and, therefore, the assessee company could in any case, utilise those funds for giving advance to its Directors.*

**17.** *On the basis of aforesaid discussion, the present appeal is allowed, thereby setting aside the order of the High Court and restoring that of the Income Tax Appellate Tribunal.*

**1.5.4.** Therefore, presumption would go in favour of the assessee that the interest free funds were given out of interest free funds available at the disposal of the assessee as per balance sheet of the assessee, by applying the ratio as laid down by the Hon'ble Bombay High Court in in the case of CIT vs. Reliance Utilities & Power Ltd. (2009) 178 Taxman 135 (Bom) and the decision of Hon'ble Punjab & Haryana High Court in the case of Hero Cycles Ltd. (2010) 323 ITR 518 (P&H) and other decision as relied by the Id. A.R., we are of the considered opinion that no disallowance of interest is warranted in the case. Accordingly, disallowance of interest of Rs.21,94,522/- is deleted. The above grounds of appeal is therefore, allowed.

**2. Ground no. 2 : In this ground the assessee has challenged the disallowance made by the AO at Rs. 3,50,000/- in respect of cash Discount, but maintained by the Id. CIT (A) at Rs. 1,00,000/-**

**2.1.** During the course of assessment proceedings, the AO noticed that the assessee is charging quality difference / weight difference of Rs. 8,98,982/- from M/s. Nahar Spinning Mills Ltd. and also allowed cash discount of Rs.

10,59,688/- during the year, hence, the AO disallowed an amount offered 3,50,000/-

**2.2.** Being, aggrieved the assessee filed an appeal before the Id. CIT (A) who has reduced the ad-hoc disallowance to Rs. 1,00,000 from Rs. 3.50,000/- by observing that the party to whom cash discount is given is very regular in payment with whom transaction of Rs. 17.60 crores done during the year, but the party is not sincere in quality and weights.

**2.3.** Being, aggrieved the assessee filed this appeal before the Tribunal. The Ld. A.R. submitted that the assessee has given cash discount of Rs. 11.90 crore out of which cash discount of Rs. 9.51 crore pertains to M/s. Nahar Spinning Mills Ltd. with whom transaction of Rs. 17.60 crore were carried out during the year. The said party is very regular in paying dues and is not directly or indirectly related to the assessee. The AO has failed to pointed out specific items of disallowance of expenditure and not doubted that expenditure incurred by the assessee. The assessee is Pvt. Ltd. of whom account are audited by independent chartered accountant and hence, ad-hoc disallowance maintained at Rs. 1 Lakh is not justified. The Ld. A.R. also relied on fwlg case laws in support of his contention: Core Health Care Ltd. 70 TTJ 490 (Ahd), Manalal Agarwal 26 In the circumstances 146(Ind), Monarch Foods Pvt. Ltd. 54 TTJ

405 (Ahd) and Siuureka Marketing & Engineering I.T.A.  
No. 525/Ind/97 dtd. 21.03.2003 Indore bench.

**2.4.** The Ld. D.R. supported the order of CIT(A).

**2.5.** We have heard the rival submissions of both the parties and have perused the material available on record. We find that the assessee has made substantial transaction amounting to Rs. 17.60 crore with M/s. Nahar Spinning Mills Ltd. who has been found to be very regular in payments , hence, allowance of cash discount is prudent business decision of the assessee which cannot be interfered by the AO without pointing out any specific defects, hence, disallowance made by the ld. CIT (A) at Rs. 1 Lakh is deleted. This grounds of appeal is therefore, allowed.

**3.** In the result, the appeal of the assessee is allowed.

**4.** The order pronounced in the open Court on  
28.02.2017.

**Sd/-**  
(सी.एम.गर्ग)  
न्यायिक सदस्य  
**(C. M. GARG)**  
**JUDICIAL MEMBER**

**Sd/-**  
(ओ.पी.मीना)  
लेखा सदस्य  
**(O.P.MEENA)**  
**ACCOUNTANT MEMBER**

दिनांक /Dated : 28<sup>th</sup> February, 2017/opm