

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C", NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER

	ITA No. 4691/Del/2015	
	A.Y. : 2012-13	
ACIT, CICLE, SONEPAT	VS.	M/S ATLAS CYCLES HARYANA LTD., ATLAS ROAD, SONEPAT (PAN:AABCA8412C)
(APPELLANT)		(RESPONDENT)

Department by : Sh. Arun Kumar, Sr. DR
Assessee by : Sh. Shailesh Gupta, CA

ORDER

PER H.S. SIDHU, JM

The Revenue has filed the present appeal against the impugned order dated 12/5/2015 passed by the Ld. Commissioner of Income Tax (Appeals), Rohtak on the following grounds, relevant to assessment year 2012-13.

1. *"On the facts and in the circumstances of the case the Ld. CIT (A) has erred in law and facts in deleting the addition of Rs. 1,60,88,065/- which was made by the A.O on account of interest*

*attributable to advance made to Sh. Arun Kumar
The A.O had disallowed interest of Rs
1,60,88,065/- as interest attributable at 12% on
Rs. 13,40,67,214/- which has been advance to Sh
Arun Kumar out of interest bearing funds of the
company.*

*2 The Ld. CIT(A) has erred in law and in facts in
deleting the addition of Rs.90,200/- under the sub-
head marriage gift and addition of Rs.4,12,414/-
under the sub-head subscription expenses as these
expenses were personal in nature.*

*3 The Ld. CIT(A) has erred in law and in facts in
deleting the addition of Rs.1,50,000/- under the
consultancy expenses and addition of Rs.2,31,993/-
being expenses incurred in advertisement in Hindustan
Times on the anniversary Of Late. Sh. Janki Oas
Kapoor which were personal in nature and not for the
business purpose.*

*4 The Ld. CIT(A) has erred in law and in facts in
deleting the addition of Rs.3,74,560/- under the sub
head glow shine board expenses .Since the normal life
of glow shine board is of three years and the expenses
incurred on glow shine board are debited during the
year under consideration which is not allowable .The*

Ld.CIT(A) has also erred in law in deleting the addition of Rs 3,00,000/- under the head worker and staff welfare for which no bills or vouchers were furnished during the assessment proceedings.

5 The Ld. CIT(A) has erred in law and in facts in deleting the addition of Rs 4,00,000/- out of foreign travel expenses. It is observed that most of foreign travel expenses are in connection of foreign travelling of the Kapoor family who are top management of the company. The Ld. CIT(A) has also erred in deleting the addition of Rs. 31,080/- under the head entertainment wine & beer being personal in nature and Rs.52,500/- under the sub head prize and rewards which remained unexplained and un vouched.

6 The Ld.CIT(A) has also erred in law and in facts in deleting the addition of Rs 3,00,000/- under the head sales promotion being un-vouched and for which no bills were furnished.”

2. The brief facts of the case are that the assessee in this case is a Resident Company and furnished a return of income, declaring a taxable income of Rs. 1,82,76,383/- and in response to which assessment has been completed vide an order passed u/s. 143(3) dated 09.2.2015 of the Income Tax Act, 1961 (hereinafter referred as the Act) at an assessed income of Rs. 4,17,60,620/- inter alia making various additions and disallowances.

3. Aggrieved by the assessment order dated 09.2.2015, assessee filed appeal before the Ld. First Appellate Authority who has partly allowed the appeal of the assessee vide order dated 12.5.2015 and deleted the some of the additions.

4. Ld. DR relied upon the order of the AO and reiterated the contentions raised in the grounds of appeal and requested that the appeal of the Revenue may be allowed.

5. Ld. Counsel of the assessee has relied upon the order of the Ld.CIT(A) and stated that Ld. CIT(A) has passed a well reasoned order which does not need any interference, hence, he requested that the appeal of the Revenue may be dismissed. He further stated that the similar and identical issues have also been decided in favour of the assessee by the Tribunal in Assessee's own case vide order dated 29.7.2016. In support of his findings, he filed the copy of the order of the Tribunal dated 29.7.2016.

6. We have heard both the parties and perused the records available on record especially the impugned order and the order of the ITAT, 'A' Bench, New Delhi dated 29.07.2016 passed in ITA Nos. 784/Del/2010 (AY 2006-07) & Ors. in assessee's own case.

6.1 With regard to ground no. 1 relating to deletion of addition of Rs. 1,60,88,065/- which was made by the A.O on account of

interest attributable to advance made to Sh. Arun Kumar is concerned, we note that the action of the AO in disallowing interest of Rs. 1,60,88,065/- as interest attributable at 12% on Rs. 13,40,67,214/- on the ground that this sum has been advanced interest free to Sh. Arun Kapoor S/o Sh. BD Kapoor son of Sh. Janki Dass Kapoor, founder of the company. We further note that this issue is already covered and been adjudicated in favour of the assessee for the AY 2003-04 to 2011-12 holding that the said amounts have been embezzled by Sh. Arun Kapoor and therefore, the question of charging interest or foregoing interest does not arise. On the same analogy, the disallowance made by the AO in the year was rightly deleted by the Ld. CIT(A), which does not need any interference on our part, therefore, we affirm the impugned order on the issue in dispute involved in ground no. 1 and accordingly reject the same.

6.2 With regard to ground no. 2 relating to deletion of addition of Rs.90,200/- under the sub-head marriage gift is concerned, we note that the expenditure incurred by the assessee is only towards meeting the social obligation towards the dealer and employees which is an important tool of business promotion and staff welfare. Moreover, the same is also covered matter, the disallowance made by the AO was rightly deleted by the Ld. CIT(A), which does not

need any interference, hence, we uphold the same. As regards the addition of Rs.4,12,414/- under the sub-head subscription expenses is concerned, we find that since the AO could not bring anything on record that the payments are not genuine/ not expended wholly and exclusively for the business purpose and further the issue being a covered matter, the adhoc disallowance made by the AO was rightly deleted by the Ld. CIT(A), which does not need any interference on our part, hence, we uphold the action of the Ld. CIT(A) on the issues in dispute and accordingly reject the ground no. 2 raised by the Revenue.

6.3 With regard to ground no. 3 relating to deletion of addition of deleting the addition of Rs.1,50,000/- under the consultancy expenses is concerned, we find that since the AO could not bring anything on record that the payments are not genuine/ not expended wholly and exclusively for the business purpose and further the issue being a covered matter, the adhoc disallowance made by the AO was rightly deleted by the Ld. CIT(A), which does not need any interference on our part, hence, we uphold the action of the Ld. CIT(A). As regards the addition of Rs.2,31,993/- being expenses incurred in advertisement in Hindustan Times on the anniversary Of Late. Sh. Janki Das Kapoor is concerned, we find that action of the AO in disallowing Rs. 2,31,993/- being expenses

incurred in advertisement in Hindustan Times on the Anniversary of the founder of the Company Late Sh Janki Dass Kapoor. It was noted that it was the contention of the A.R. that the advertisement was to pay tribute / homage to the founder of the company by the management, staff and workers of all the units which was allowed in the appeal by the ITAT and the Ld. CIT(A), hence, the Ld. CIT(A) has rightly deleted the addition by following the precedence, which does not need any interference on our part, therefore, we affirm the impugned order on the issues in dispute involved in ground no. 3 and accordingly reject the same.

6.4 With regard to ground no. 4 relating to addition of Rs.3,74,560/- under the sub head glow shine board expenses is concerned, we are of the considered opinion that this expenditure has been considered to be Revenue in nature, hence, Ld. CIT(A) has rightly deleted the addition in dispute being a covered matter, which does not need any interference on our part, therefore, we affirm the impugned order on the issue in dispute involved in ground no. 4 and accordingly reject the same.

6.5 With regard to ground no. 5 relating to deletion of addition of Rs 4,00,000/- out of foreign travel expenses, we find that AO had disallowed adhoc amount of Rs. 4 lacs without resorting to actual

disallowance on being satisfied that particular tours have not been undertaken for business purposes. Therefore, the Ld. CIT(A) considering the facts of the case and the decision of the ITAT, has rightly deleted the adhoc disallowance made by the AO of Rs. 4 lacs, which does not need any interference on our part, therefore, we affirm the impugned order on the issue in dispute involved in ground no. 5 and accordingly reject the same.

6.6 With regard to ground no. 6 relating to deletion of addition of Rs 3,00,000/- under the head sales promotion being unvouched, we find that before the Ld. CIT(A) the assessee has submitted all the voucher-wise details of expenses and stated that all the expenses were incurred for business purpose only, hence, after considering the same, the Ld. CIT(A) has rightly deleted the addition in dispute, which does not need any interference on our part, therefore, we affirm the impugned order on the issue in dispute involved in ground no. 6 and accordingly reject the same.

7. Even otherwise, after perusing the order of the ITAT, 'A' Bench, New Delhi dated 29.07.2016 passed in ITA Nos. 784/Del/2010 (AY 2006-07) & Ors. in assessee's own case, all the grounds nos. 1 to 6 involved in the present Appeal are also squarely covered by the aforesaid decision of the ITAT dated 29.7.2016, as

aforesaid, in favour of the assessee. Accordingly, the appeal of the Revenue is dismissed on this account also.

8. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the Open Court on 04/10/2017.

Sd/-

**(L.P. SAHU)
ACCOUNTANT MEMBER**

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 04/10/2017

"SRBHATNAGAR"

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches