

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", NEW DELHI  
BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER**

**ITA No.4347/Del/2017  
Assessment Year : 2013-14**

Jaguar International Ltd., 5, Pusa Road, 2nd Floor, New Delhi.	<b>Vs.</b>	ITO, Ward- 13(1), New Delhi.
<b>PAN : AABCJ0573B</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Ms. Rano Jain, Adv.  
Department by : Ms. Yamini, Sr.DR  
Date of hearing : 23-11-2017  
Date of pronouncement : 13-12-2017

**ORDER**

**PER R. K. PANDA, AM :**

This appeal filed by the assessee is directed against the order dated 06.04.2017 of CIT(A)-5, Delhi relating to assessment year 2013-14.

2. Disallowance of an amount of Rs.14,04,351/- made by the Assessing Officer on account of interest expenses u/s 36(1)(iii) of the I.T. Act which has been confirmed by the Id. CIT(A) is the only issue raised by the assessee in the grounds of appeal.

3. Facts of the case, in brief, are that the assessee is a company. It filed its return of income on 28.09.2013 declaring total income of Rs.10,02,934/- and claimed brought forward loss of Rs.10,02,934/-. MAT income of Rs.6,74,729/- was also declared by the assessee. The assessee company was engaged in the

business of Trading of H. R. Coll. During the course of assessment proceedings, the Assessing Officer observed that the assessee charged an amount of Rs.19,97,439/- to the revenue account which is in the nature of interest/renewal charges on a counter guarantee furnished by the assessee company on behalf of M/s Hama Trading & Contracting Co., Kuwait. The counter guarantee of USD 1900643 was initially furnished in the year 2005 and its validity period was got extended from time to time by the assessee company and amounts charged by the Bank for such renewal extending the validity period was charged to revenue account by the assessee company. Following the order for assessment year 2012-13, where the issue has been thoroughly discussed, the Assessing Officer rejected the claim of the assessee of such sum being revenue in nature and make addition of Rs.19,97,439/- to the total income of the assessee.

4. In appeal, the Id. CIT(A) following his order for assessment year 2012-13 upheld the addition/disallowance made by the Assessing Officer.

5. Aggrieved with such order of the Id. CIT(A), the assessee is in appeal before the Tribunal.

6. Ld. counsel for the assessee, at the outset, filed a copy of the order of the Tribunal in assessee's own case for assessment year 2012-13 and submitted that the Tribunal has deleted such disallowance made by the Assessing Officer and upheld by the Id. CIT(A). Therefore, this being a covered matter, the grounds raised by the assessee should be allowed.

7. Ld. DR on the other hand while supporting the order of the Id. CIT(A) fairly conceded that the Tribunal has decided the issue in favour of the assessee.

8. I have considered the rival arguments made by both the sides and perused the material available on record. I find the Assessing Officer, following the order for assessment year 2012-13, disallowed an amount of Rs.19,97,439/- being the interest/renewal charges on counter guarantee furnished by the assessee on behalf of M/s Hama Trading & Contracting Co., Kuwait. I find the Id. CIT(A) following her order for assessment year 2012-13 upheld the addition made by the Assessing Officer. I find when the matter travelled to the Tribunal, the Tribunal vide ITA No.4371/Del/2016 order dated 27.04.2017 decided the issue in favour of the assessee by observing as under :-

*“11. I have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case, it is an admitted fact that the assessee paid interest amounting to Rs.48,92,072/- which comprises of two parts i.e. Rs.24,36,353/- on the working capital loan from the bank which had been directly used for the business purpose and Rs.24,60,749/- paid in respect of unsecured loans of Rs.5,06,36,314/- received from M/s Sudha Apparels Ltd. which was utilized in the fixed deposits on which the assessee earned interest amounting to Rs.39,73,387/-. Therefore, the expenditure relating to the interest paid was directly linked with the business of the assessee, so no disallowance could have been made u/s 37 of the Act as interest expenses incurred during the year had direct nexus with the income of the assessee and was fully allowable as per the provisions of Section 36(1)(iii) of the Act. In the present case, the AO disallowed a sum of Rs.13,89,951/- out of the expenses claimed on account of interest which was paid by the assessee for the business exigency. In my opinion the action of the AO was not justified and the Id. CIT(A) without appreciating the fact in right perspective, sustained the disallowance made by the AO.*

*12. As regards to the interest free advances given by the assessee to M/s Aggarwal Industries and M/s Discover Industries Pvt. Ltd. is concerned, it is noticed that the assessee was having sufficient own funds available with it during the year under consideration which is evident from page no. 9 of the assessee's paper book which is the copy of the balance sheet as on 31.03.2012 and reveals that share capital and reserves and surplus were to the extent of Rs.6,31,74,469/- which were more than the interest free advances of Rs.1,15,82,925/-. Therefore, the AO was not justified in presuming that the interest @ 12% was to be disallowed of Rs.1,15,82,925/- when the loans raised by the assessee were utilized for the business purposes and the advances*

*given to m/s Aggarwal industries and M/s Discover Industries Pvt. Ltd. amounting to Rs.1,82,925/- and Rs.1,14,00,000/- respectively were out of the own funds available with the assessee. In that view of the matter, the disallowance made by the AO and sustained by the ld. CIT(A) is deleted.*

13. *In the result, the appeal of the assessee is allowed."*

9. Since the Assessing Officer and the ld. CIT(A) while deciding the issue have followed the order for assessment year 2012-13 and since the Tribunal has already decided the issue in favour of the assessee, therefore, respectfully following the decision of the Tribunal in assessee's own case and in absence of any contrary material brought to my notice, I set-aside the order of the ld. CIT(A) and direct the Assessing Officer to delete the impugned disallowance. The grounds raised by the assessee are accordingly allowed.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on this 13<sup>th</sup> day of December, 2017.

**Sd/-**  
(R. K. PANDA)  
ACCOUNTANT MEMBER

Dated: 13-12-2017.

*Sujeet*

*Copy of order to: -*

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
- 5) The DR, I.T.A.T., New Delhi

By Order

//True Copy//

Assistant Registrar  
ITAT, New Delhi