

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA Nos.574 & 575 (Asr)/2015
Assessment Years:2008-09 & 2009-10

Asst. CIT
Circle-II, Jalandhar

(Appellant)

Vs. M/s. Max India Ltd.
Bhai Mohan Singh Nagar
Rail Majra, Teh. Balachaur
Distt. Nawanshahr

PAN:AABCM1204G

(Respondent)

ITA Nos.431 & 432 (Asr)/2016
Assessment Years:2011-12 & 2012-13

Dy. CIT
Circle-II, Jalandhar

(Appellant)

Vs. M/s. Max India Ltd.
Bhai Mohan Singh Nagar
Rail Majra, Teh. Balachaur
Distt. Nawanshahr

PAN:AABCM1204G

(Respondent)

ITA No.685 (Asr)/2017
Assessment Year:2013-14

Asst. CIT
Circle-II, Jalandhar

(Appellant)

Vs. M/s. Max India Ltd.
Bhai Mohan Singh Nagar
Rail Majra, Teh. Balachaur
Distt. Nawanshahr

PAN:AABCM1204G

(Respondent)

Appellant by: Sh. Sandeep Chauhan (Ld. DR)
Respondent by: Sh. Gaurav Jain (Ld. CA)

Date of hearing: 26.06.2018
Date of pronouncement: 29.06.2018

ORDER

PER N.K.CHOUDHRY, JM:

The aforesaid appeals have been preferred by the Revenue Department, on feeling aggrieved against the separate orders dated 18.08.2015, 17.08.2015, 13.06.2016, 17.06.2016 & 16.08.2017 relevant to the Asst. Years: 2008-09 & 2009-10, 2011-12 & 2012-13 & 2013-14 respectively.

2. Factually there is slight difference between the facts of ITA No.574(Asr)/2015 and rest appeals, as in ITA No.574(Asr)/2015 the Assessing Officer passed the order u/s 154 of the I.T. Act whereas in remaining appeals, orders have been passed u/s 143(3) of the Act. However the issue involved in all the appeals is similar and identical, therefore, for the sake of convenience and brevity, all the appeal have been taken simultaneously for adjudication.

3. More or less issue involved relates to disallowance of interest u/s 36(1)(iii) of the Act, made by the Assessing Officer which was deleted by the Ld. CIT(A) while relying upon the order dated 19th March, 2013 passed by the ITAT Amritsar Bench in ITA No.274(Asr)/2012 relevant to Asst. Year: 2008-09 whereby

the Co-ordinate Bench at Amritsar while relying upon its own orders relevant to the Asst. Year:2001-02 to 2006-07 dated 08.03.2013, deleted the disallowance u/s 36(1)(iii) of the Act, on the grounds that the company had sufficient surplus interest free funds and the loans have been given out of the surplus interest free funds available and the loan was given on account of commercial expediency, therefore, no part of interest expenditure warranted disallowance u/s 36(1)(iii) of the Act. Further.

4. It is undisputed fact that the orders of the ITAT relates to Asst. Year 2008-09, and 2010-11 & 2002-03 have been subjected to the Jurisdictional High Court and the Jurisdictional High Court vide its orders dated 8th March, 2017 relevant to the Asst. Years: 2008-09 & 2010-11 and dated 6th Sep.2016 relevant to the Asst. Year: 2002-03 uphold the orders of the ITAT. The Ld. CIT(A) while relying upon the orders passed by the ITAT, deleted the disallowance made by the Assessing Officer by reworking u/s 154 of the I.T. Act relevant to the Asst. Year:2008-09. For the sake of convenience and brevity the concluding part of the order passed by the Ld. CIT(A) in ITA No.574(Asr)/2015 for Asst. Year:2008-09 is reproduced herein below.

“I have carefully considered the submissions, order u/s 154 of Income tax Act and the order of Hon’ble ITAT in ITA No.274(Asr)/2012 for A.Y.2008-09 in case of assessee. The disallowance of Rs.1,45,91,805 made in original assessment order has been deleted by Hon’ble ITAT by observing as reproduced above, along with submissions of assessee, giving

reasons for the same, which is not repeated here for the sake of brevity. Since the original disallowances have been deleted by Hon'ble ITAT, the reworking of disallowance done u/s 154 of Income Tax Act by AO also doesn't survive, and this appeal is rendered infructuous and is disposed off accordingly. All the grounds are thus disposed."

5. The Revenue except relying upon the orders passed by the Assessing Officer do not bring any material contrary to the claim of the assessee on which basis the reliefs have been granted by the Ld. CIT(A). On the other hand, the Ld. AR had drawn our attention to the orders passed by the Co-ordinate Bench at Amritsar as well as the jurisdictional High Court and also to the cash flow statement and other documents on record in support of its claim to strengthen the orders passed by the Ld. CIT(A).

6. We have heard the parties and perused the orders passed by the ITAT as well as Hon'ble jurisdictional High Court and also independently reaffirmed that the interest free funds available with the assessee were sufficient and much more than interest free advances, for advancing interest free loans to its subsidiaries companies which clearly reflects from the cash flow statement of the assessee company as well as from the observations made by the ITAT and Jurisdictional High Court in its orders , therefore, considering the facts and circumstances of the cases in hand and the orders as stated above, we are not inclined to interfere with the orders passed by the Ld. CIT(A) as the same does not suffer from any illegality, perversity and/or impropriety and therefore upheld .

3. In the result, as in all the appeals under consideration, the issue relates only to the deletion of additions made by the AO as disallowances u/s 36(1)(iii) of the Act, hence, as per observations made above, all the appeals stands dismissed.

Order pronounced in the open Court on 29 .06.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:29.06.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) M/s Max India Ltd., Nawanshahr
- (2) The ACIT/DCIT/ACIT, Jalandhar
- (3) The CIT(A)-1, Jalandhar
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

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By order