

**आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई**

IN THE INCOME TAX APPELLATE TRIBUNAL

' D' BENCH : CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

एवं ए. मोहन अलंकामणी, लेखा सदस्य

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER &  
SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.Nos.2797,2798 & 2799/Chny/2017

निर्धारण वर्ष /Assessment years:2008-09, 2010-11 & 2011-12

The Assistant Commissioner of  
Income Tax, Circle-I,  
Namakkal. 637 001.

**(अपीलार्थी/Appellant)**

**Vs. M/s.PKPN Spinning Mills Pvt  
Ltd.,**

6,Bye Pass Road, Pallipalayam,  
Namakkal 638 006.

**[PAN AABCP 5919 K]**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Mrs.S.Vijayaprabha, JCIT,D.R  
: Mr.Saroj Kumar Parida,Advocate

सुनवाई की तारीख/Date of Hearing

: 11-09-2018

घोषणा की तारीख /Date of Pronouncement

: 11-09-2018

**आदेश / O R D E R**

**PER GEORGE MATHAN, JUDICIAL MEMBER**

ITA Nos.2797, 2798 & 2799/Chny/2017 are appeals filed by Revenue against the separate Orders passed by the Commissioner of Income Tax, Salem in Appeal Nos.56/2016-17, & 57/2016-17 & 58/2016-17, all dated 30.08.2017 for the assessment years 2008-09, 2010-11 & 2011-12 respectively.

2. Mrs.S.Vijayaprabha represented on behalf of the Revenue, and

Mr.Saroj Kumar Parida represented on behalf of the Assessee.

3.            When the appeals are taken up for hearing, the representative for the Revenue fairly submitted that the tax effect involved in the appeal No.2798/Chny/2017 for assessment year 2010-11 is below the prescribed limit. It was a further submission that the CBDT in its latest Circular No.3/2018 dated 11.07.2018 instructed its officers to withdraw all the appeals pending before the ITAT where the tax effect is less than ₹20 lakhs. Consequently, the appeal of Revenue in ITA No.2798/Chny/2017 for assessment year 2010-11 is dismissed on account of tax effect.

4.            In respect of appeals in 2797/Chny/2017 & 2799/Chny/2017, it was submitted by Id.D.R that the issue was against the order of Ld.CIT(A) in deleting the addition made by the Id. Assessing Officer on account of the disallowance of interest expenses in respect of interest attributable to the interest free loans advanced by the assessee to the sister concerns of the assessee. It was a submission that the Ld.CIT(A) had deleted the addition by following the decision of Hon'ble Supreme Court in the case of S.A. Builders Ltd., Vs. CIT [288 ITR 1 (SC)]. It was a further submission that the decision of Hon'ble Supreme Court in S.A. Builders Ltd., was now under review. It was a submission that the balance sheet and ledger A/cs, which had been produced first time before the Ld.CIT(A), was not confronted to the Id. Assessing Officer and consequently, there was violation of

Rule-46A(3) of Income Tax Rules, 1962. It was a prayer that the order of the CIT(Appeals) is liable to be reversed.

5.        In reply, Id.A.R vehemently supported the order of the CIT(Appeals).

6.        We have considered the rival submissions. Admittedly, the balance sheets and ledger accounts in respect of the assessee for the relevant assessment years and earlier assessment years cannot be considered as fresh evidence, as the same are available before the Id. Assessing Officer in view of the fact that the assessment u/s.143(3) of the Act was done by the Id. Assessing Officer. A perusal of the balance sheet and Profit And Loss Account of the assessee clearly shows that the assessee has ₹22.69 crores in the form of capital & Reserve for assessment year 2008-09, ₹24.78 crores for assessment year 2009-10, ₹32.31 crores for assessment year 2010-11 and ₹34.07 crores for assessment year 2011-12. The assessee has also cash profits to an extent of ₹5.37 crores for assessment year 2008-09, ₹10.97 crores for assessment year 2009-10, ₹5.08 crores for assessment year 2010-11 and ₹17.41 crores for assessment year 2011-12. As against this, the loan given totaled to ₹5.39 crores for assessment year 2008-09, ₹7.69 crores for assessment year 2009-10, ₹2.83 crores for assessment year 2010-11 and ₹09.49 crores for assessment year 2011-12. This clearly

shows that the assessee had adequate non-interest bearing funds available with it for giving the advances to the sister concerns. This being so, as the Revenue has not been able to disprove these specific facts, we are of the view that the order of CIT(Appeals) following the decision of Hon'ble Supreme Court in the case of S.A. Builders Ltd., referred to supra, as also the decision of Hon'ble jurisdictional High Court in the case of CIT Vs. Hotel Savera ( 239 ITR 795 (Mad.) ) is on the right footing and does not call for any interference. Both the appeals of the Revenue in ITA Nos.2797/Chny/2017 & 2799/Chny/2017 for assessment years 2008-09 & 2011-12 stand dismissed.

7. In the result, all the three appeals filed by the Revenue are dismissed.

Order pronounced in the open court after conclusion of hearing on 11<sup>th</sup> September, 2018, at Chennai.

Sd/-

(ए. मोहन अलंकामणी)

(A.MOHAN ALANKAMONY)

**लेखा सदस्य /ACCOUNTANT MEMBER**

Sd/-

( जॉर्ज माथन)

(GEORGE MATHAN)

**न्यायिक सदस्य/JUDICIAL MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 11<sup>th</sup> September, 2018.

**K S Sundaram**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant   | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT           | 6. गार्ड फाईल/GF        |