

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
' C' 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.No.181/Chny/2017

निर्धारण वर्ष /Assessment year : 2011-12

**M/s.Arun Textiles,**  
18,Thottiapatti Road,  
Rajapalayam-626 117

**Vs.** The Income Tax officer,  
Ward 1(1),  
Virudhunagar-626 001.

**[PAN AAFFA 0396 L]**  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

आयकर अपील सं./I.T.A.No.199/Chny/2017

निर्धारण वर्ष /Assessment year : 2011-12

The Income Tax officer,  
Ward 1(1),  
Virudhunagar-626 001.

**Vs.** **M/s.Arun Textiles,**  
18,Thottiapatti Road,  
Rajapalayam-626 117

**(अपीलार्थी/Appellant)**

**[PAN AAFFA 0396 L]**  
**(प्रत्यर्थी/Respondent)**

Assessee by  
Revenue by

: Mr.K.V.Raman,C.A  
: Mr.Clement Ramesh Kumar,  
Additional CIT,D.R

सुनवाई की तारीख/Date of Hearing

: 08-10-2018

घोषणा की तारीख /Date of Pronouncement

: 08-10-2018

**आदेश / ORDER**

**PER GEORGE MATHAN, JUDICIAL MEMBER**

ITA No.181/Chny/2017 is the appeal filed by the assessee and ITA No.199/Chny/2017 is the appeal filed by the Revenue. These cross appeals are directed against the order of CIT(A)-3, Madurai in ITA No.0079/2014-15 dated 27.10.2016 for assessment year 2011-12.

2. Mr.K.V.Raman represented on behalf of the Assessee and Mr.Clement Ramesh Kumar represented on behalf of the Revenue.

3. Since the assessee is common in these two appeals, these cross appeals are clubbed together, heard together, disposed off by this common order for the sake of convenience.

**First we take up Revenue's appeal in ITA No.199/Mds./2017**

4. When the appeal is taken up for hearing, the representative of the Revenue fairly submitted that the tax effect involved in this appeal is less than ₹20 lakhs. It was a 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. The Id.A.R in his written submission dated 24.09.2018 reiterated the same fact put forth by the Id.D.R before us. This Tribunal is of the considered opinion that this Circular of CBDT is

binding on the officers of the Department. Therefore, the Revenue cannot proceed further in this appeal. Accordingly, the appeal filed by the Revenue stands dismissed.

3. In the result, the appeal filed by the Revenue stands dismissed.

**Next we take up Assessee's appeal in ITA No.181/Mds./2017**

4. It was submitted by Id.A.R that the assessee was running an account with its sister concern, M/s.Sakthi Spintex (P) Ltd., and as on 31.03.2011, the assessee had advanced to its sister concern to an extent of ₹1,40,74,492/-. It was a submission that the Id. Assessing Officer had disallowed proportionate interest in respect of interest free advance given to assessee's sister concern @ 12% per annum. It was a submission that the average of the packing credit loan in respect of the assessee was only to an extent of 7.5%. It was a further submission that assessee had advanced the funds to its sister concern for setting of its factory for manufacturing of yarn, which is a raw-material for the assessee. It was a submission that the advances having been given for the purpose of business, no disallowance is called for. It was a submission that if at all any disallowance is called for, in the alternative the same has been restricted to 7.5% being the

rate of interest in respect of packing credit taken by the assessee from the Banks.

5. In reply, the Id.D.R vehemently supported the order of the CIT(Appeals). It was a submission that no business connection has been specifically shown. It was a prayer that in respect of rate of interest, the issue as to whether the rate of interest is 7.5% in respect of packing credit, could be restored to the file of Id. Assessing Officer for verification and adjudication.

6. We have considered the rival submissions. Admittedly, in the present case, the assessee has not been able to show any business connection with its sister concern. In fact, the assessee has paid interest to banks and has given funds to its sister concern without charging interest, which has not even started production. Admittedly, the sister concern M/s.Sakthi Spintex (P) Ltd., started production only during the assessment year 2016-17 and subsequently, the said unit has already been sold on account of certain loan liabilities. Thus clearly, it cannot be said that the advance has been made for the purpose of business. However, coming to the issue of rate of interest applicable for making the disallowance, this issue is restored to the file of Id. Assessing Officer for verification and adjudication. The Id. Assessing Officer shall apply the rate in respect of net interest payable

by the assessee to the banks on the packing credits provided by the banks. With this direction, this issue is restored to the file of Id. Assessing Officer for verification and adjudication.

7. In the result, the appeal of the assessee is partly allowed.

8. To summarize the result, the appeal of Revenue is dismissed and the appeal of the assessee is partly allowed.

Order pronounced in the open court after conclusion of hearing on 08<sup>th</sup> October, 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: 08<sup>th</sup> October, 2018.

**K S Sundaram**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF