

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI N. K. SAINI, ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No. 437/DEL/2016 ( A.Y 2011-12)**

Johnson Watch Company Pvt. Ltd. L-21, Connaught Place New Delhi AABCJ9807G <b>(APPELLANT)</b>	Vs	DCIT Circle-4(1) New Delhi <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. T. R. Talwar, Adv</b>
<b>Respondent by</b>	<b>Ms. Ashima Neb, Sr. DR</b>

<b>Date of Hearing</b>	<b>29.08.2018</b>
<b>Date of Pronouncement</b>	<b>31.10.2018</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 03/11/2015 passed by CIT(A)-5 New Delhi for Assessment Year 2011-12.

2. The grounds for appeal are as under:-

*“On the facts and circumstances of the case the learned CIT(A) has erred:-*

- 1.a) *In sustaining the notional disallowance of interest expenditure of Rs.14,51,359/-out of interest paid to the bank on its borrowed funds presumably on the ground that amount borrowed was kept as cash by the assessee and not utilized for the business purpose of the assessee.*
- b) *In ignoring the fact the daily cash in hand or cash balance at the end of the month shown represent sale proceeds of 8 showrooms and consist of not only cash but also cash/ cheques and credit cards slips collected during the day which are deposited in the bank in the following day/ days as per the convenience of the management and the banking facility*

*available on the following days.*

- c) *In ignoring the fact that cash in hand is the current assets of the assessee company and thereby no disallowance of interest can be attributed in acquiring the current asset of the company.*
- d) *In working notional disallowance of interest on an average cash balance by applying 12% of interest on such average cash balance without establishing that the assessee company has made any secret profits out of such cash balances or diverted such cash balances for non-business use.*
- e) *In not establishing the nexus between the borrowed funds and their utilization for any non-business use and not for the purpose of the assessee's business.*
- f) *in ignoring the fact that the cash balance as on 31-3-2010 amounting to Rs.5,26,63,899/- generated during the sales for the month of March 2010 amounting to Rs.15,17,24,022/- alongwith current sales during the period 1<sup>st</sup> April to 19<sup>th</sup> April 2010 amounting to Rs.4,68,62,684/- was being deposited in the bank account almost on daily basis with the result that the cash balance as on 19-4-2010 was Rs.58,16,155/- only.*
- g) *in ignoring that the opening cash balance as on 1-4-2011 amounting to Rs.80,96,361/- alongwith sales of Rs.34,77,320/- of 1-4-2011 was deposited in the bank account leaving only a cash balance of Rs.30,12,368/- as at the close of 1<sup>st</sup> April 2011 thereby not only the opening cash balance of Rs.80,96,361/- was deposited but also additional amount of about Rs. 4,64,952/- out of current sales of the day was also deposited in the bank account.”*

3. The assessee company is engaged in the business of trading of wrist watches, gift/novelty items and mobile phones. For the A.Y. 2011-12, return of income was filed on 28.09.2011, declaring income of Rs.8,65,26,030/-. The income was revised on 24.03.2012 at the same figure due to technical reasons. The income was assessed at Rs.9,09,41,940/- on account of several additions by the Assessing Officer.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted that in sustaining the notional disallowance of interest expenditure of Rs.14,51,359/-out of interest paid to the bank on its borrowed funds presumably on the ground that amount borrowed was kept as cash by the assessee and not utilized for the business purpose of the assessee. The Ld. AR further submitted that the daily cash in hand or cash balance at the end of the month shown represent sale proceeds of 8 showrooms and consist of not only cash but also cash/ cheques and credit cards slips collected during the day which are deposited in the bank in the following day/ days as per the convenience of the management and the banking facility available on the following days. The Ld. AR further submitted that the cash in hand is the current assets of the assessee company and thereby no disallowance of interest can be attributed in acquiring the current asset of the company. The Ld. AR submitted that in working notional disallowance of interest on an average cash balance by applying 12% of interest on such average cash balance without establishing that the assessee company has made any secret profits out of such cash balances or diverted such cash balances for non-business use. The Ld. AR submitted that in not establishing the nexus between the borrowed funds and their utilization for any non-business use and not for the purpose of the assessee's business. The Ld. AR submitted that the Assessing Officer as well as the CIT(A) ignored the fact that the cash balance as on 31-3-2010 amounting to Rs.5,26,63,899/- generated during the sales for the month of March 2010 amounting to Rs.15,17,24,022/- alongwith current sales during the period 1<sup>st</sup> April to 19<sup>th</sup> April 2010 amounting to Rs.4,68,62,684/- was being deposited in the bank account almost on daily basis with the result that the cash balance as on 19-4-2010 was Rs.58,16,155/- only. The Ld. AR further submitted that the CIT(A) ignored the fact that the opening cash balance as on 1-4-2011 amounting to Rs.80,96,361/- alongwith sales of Rs.34,77,320/- of 1-4-2011 was deposited in the bank account leaving only a cash balance of Rs.30,12,368/- as at the close of 1<sup>st</sup> April 2011 thereby not only the opening cash balance of Rs.80,96,361/- was deposited but also additional amount of about Rs. 4,64,952/- out of current sales of the day was also deposited in the

bank account.

5. The Ld. DR relied upon the order of the CIT(A) and the Assessment Order.

6. We have heard both the parties and perused the relevant material available on record. The CIT(A) has given a categorical finding that out of the total interest free loans of Rs. 4,24,43,463/- outstanding at year end, it was seen that interest free advances of Rs. 3,92,43,363/- had been advanced during the year. At the same time the assessee paid substantial interest of Rs. 3,92,46,550/- on the loans raised of Rs. 42.64 crores during the year. The CIT(A) has observed that vide letter dated 19.03.2014, the assessee had stated that the advances had been given to suppliers and other parties for business reasons and the amount was adjusted in the next year. The complete details of loans and advances along with the purpose of the same, was enclosed to this letter by the assessee and submitted before the Assessing Officer. Therefore, the CIT(A) held that it is found that the AO's observation that no explanation was filed regarding the business purposes behind the advancement of loans is not correct. But while giving finding in respect of disallowance of interest expenditure of Rs.14,51,359/- on account of payment of huge interest, because assessee is maintaining huge cash balances is something contrary to its finding. The Ld. AR pointed out that the Assessing Officer as well as the CIT(A) failed to recognize the peculiar nature of the assessee's business wherein the receipts by way of cash sales, cheque sales and credit card sales from all the eight showrooms are collected and deposited in the coming days in the bank as per the convenience of the management. The total turnover of the assessee is Rs. 146 corers and if the average sale is worked out, the monthly and the daily average sales comes to around Rs. 12 crores and Rs. 50 lakhs respectively. Besides that on identical situation in the A.Y. 2010-11, the CIT(A) therein deleted similar addition vide order dated 18.12.2014. The Assessing Officer has not brought on record any evidences that the cash in hand was

utilized to make any secret profits or diverted for non-business uses is also not acceptable. The CIT(A) has given a finding that “In my humble opinion, there is no material evidence required to prove that the cash balances have been utilized for non-business purposes in order to disallow the claim u/s 136(1)(ii).” But the main factor in our opinion is that business need is to be ascertained by the businessman, and it is his perception which is material and not the perception of the Assessing Officer. The cash possessed by the assessee was its business asset and therefore, interest paid on borrowed capital for that cash was business expenditure of the assessee. There is no dispute about the genuineness and reasonableness of payment of interest. The Revenue authorities did not dispute that the assessee’s nature of business requires it to possess cash balance of sufficient amount of all the material time as the making of timely payment was essence of business transaction of the assessee. It is pertinent to note that the Revenue has not disputed the fact that the cash were utilized by the assessee for business purpose only and was never utilized for any other purpose. Therefore, the CIT(A) as well as the Assessing Officer were not correct in disallowing proportionate interest expenditure for maintenance of cash balance. The appeal of the assessee is allowed.

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

**Order pronounced in the Open Court on 31<sup>st</sup> October, 2018.**

Sd/-

**(N. K. SAINI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Dated: 31/10/2018  
R. Naheed

Copy forwarded to:

1. Appellant

2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

Date of dictation	29.08.2018
Date on which the typed draft is placed before the dictating Member	30.08.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	31.10.2018
Date on which the final order is uploaded on the website of ITAT	31 .10.2018
Date on which the file goes to the Bench Clerk	31 .10.2018
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	

