

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

श्रीमती दिवा सिंह, न्यायिक सदस्य एवं, डा. बी.आर.आर. कुमार, लेखा सदस्य
BEFORE: SMT. DIVA SINGH, JM & Dr. B.R.R. KUMAR, AM

आयकर अपील सं./ ITA NO. 912/Chd/2016

निर्धारण वर्ष / Assessment Year : 2012-13

Sh. Amanpreet Singh Prop. M/s Virindra Engineering Works, Daba Road Ludhiana	बनाम	Asst. CIT Circle V, Ludhiana
स्थायी लेखा सं./PAN NO: AOSPS3963E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri. B.N. Monga, Shri. Rohit Kaura

राजस्व की ओर से/ Revenue by : Smt. Chandrakanta

सुनवाई की तारीख/Date of Hearing : 30/08/2018

उदघोषणा की तारीख/Date of Pronouncement : 29/10/2018

आदेश/Order

PER DR. B.R.R. KUMAR, A.M:

The present appeal has been filed by the Assessee against the order of the Ld. CIT(A), Ludhiana dt. 26/05/2016.

2. In the present appeal Assessee has raised the following grounds:

1. That the order passed by the Ld. CIT(A) is bad in law as well as on facts.

2. That the Ld. CIT(A) has erred in law as well as on facts in upholding the addition of Rs. 3,70,212/- made under section 36(1)(iii) of the Income Tax Act, 1961 by the Assessing Officer.

3. That the Ld. CIT(A) has failed to appreciate the facts of the case.

3. Briefs facts in this case are that the assessee filed his return of income on 13.07.2012 by declaring income of Rs. 50,01,837/-. The assessee was engaged in the business of manufacturing sewing machines parts during the period under consideration. During the course of assessment proceedings, the AO observed from the balance sheet that the assessee has purchased two plots of land one is situated at Industrial Area, Kohara of Rs. 26,90,000/- and second is at Aayali,

Kalan, Ludhiana of Rs. 33,10,500/- during the year. The assessee was issued a show-cause as to why interest should not be capitalized on this land till the date of put to use given that interest bearing loan funds of Rs. 50,00,357/- are outstanding against capital of Rs. 48,19,393/-. The AO was not satisfied with the assessee's submission. The AO was of view that the assessee had paid interest on loans throughout the year and the assessee had also acquired new assets and there had been major addition in capital assets. The interest for the period till the time of put to use of the assets has to be capitalized as per section 36(1)(iii). Accordingly, the AO made an addition of Rs. 3,70,212/- u/s 36(1)(iii) of the Income Tax Act, 1961.

4. The Ld. CIT(A) confirmed the order of the Assessing Officer at that time relying on the judgment of CIT Vs. Abhishek Industries Ltd.

5. Before us, the Ld. AR submitted the balance sheet of the Assessee wherein the capital account is to the tune of Rs. 31,93,282/- and unsecured loans from friends and relatives of Rs. 51,57,274/- as at 2011 to prove that the assessee brought sufficient own funds for the investments. As per the P&L Account the assessee has disclosed a net profit of Rs. 47,16,899/-.

6. Ld. DR relied on the orders of the authorities below.

7. The issue stands adjudicated by various precedents by this Tribunal based on the various pronouncements of the jurisdictional High Courts. When the assessee has got own funds available at their disposal no disallowance is called for as enunciated in various judgments. In the case of Bright Enterprises Pvt. Ltd. Vs. CIT(Punjab & Haryana High Court in ITA No. 224/2013 dt. 24/07/2015 it was held that if there are interest free funds available then it will be presumed that these have been made out of interest free funds. Similar view was held in the

case of CIT Vs. Kapsons Associates Investment Pvt. Ltd. [2015] 381 ITR 204 (P&H) wherein, the Hon'ble Court has held that interest on investment in other properties not for business purpose cannot be disallowed if the assessee is having sufficient interest free funds at its disposal. Similar matter has been heard by the Hon'ble Delhi High Court in the case of D.D. Industries Ltd. in ITA 512-Del-2015 vide order dt. 13/03/2015 wherein it was held that no disallowance is called for when the assessee has got surplus funds for acquiring assets in question. Hence, respectfully following the ratio laid down by the various judicial pronouncements, the disallowance made on account of interest is hereby deleted.

8. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court.

Sd/-

दिवा सिंह
(DIVA SINGH)

न्यायिक सदस्य/ Judicial Member

AG

Date: 29/10/2018

Sd/-

डा. बी.आर.आर. कुमार,
(Dr. B.R.R. KUMAR)

लेखा सदस्य/ Accountant Member

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File