

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "बी" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं डा. बी.आर.आर, कुमार, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos. 1448 & 1449/CHD/2016

निर्धारण वर्ष / Assessment Years : 2011-12 & 2012-13

M/s Punjab Agro Inds. Corporation Ltd., Plot No. 2A, Sector 28A, Chandigarh	बनाम	The DCIT, Circle 4(1), Chandigarh
स्थायी लेखा सं./PAN No: AAACP9905G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Sh. Nayan Jain, Advocate
(proxy for Sh. Mahinder Arora)

राजस्व की ओर से/ Revenue by : Sh. Manjit Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 15.11.2018

उद्घोषणा की तारीख/Date of Pronouncement : 15.11.2018

आदेश/Order

Per Sanjay Garg, Judicial Member:

These appeals have been preferred by the assessee against the order dated 27.10.2016 of the Commissioner of Income Tax (Appeals)-2, Gurgaon [hereinafter referred to as CIT(A)].

2. At the outset, the Ld. Counsel of the assessee fairly submitted that the sole issue involved in both the appeals for different assessment years relating to the disallowance of interest expenditure of Rs. 96,17,200/- (for assessment year 2011-12) and Rs. 97,93,020/- (for assessment year 2012-13) respectively, payable to Government of Punjab, is squarely covered against the assessee by the decision of the Coordinate Bench of the

Tribunal in the own case of the assessee for earlier assessment years from 2008-09 to 2010-11 vide order dated 22.9.2016. A copy of the said order has also been placed in the file.

3. We have gone through the order of the Coordinate Chandigarh Bench of the Tribunal dated 22.9.2018 passed in the own case of the assessee in ITA Nos. 782/Chd/2011 and 55 & 848/Chd/2013 for assessment years 2008-09 to 2010-11, wherein, the Tribunal after detailed discussion decided the same against the assessee. The relevant part of the order of the Tribunal dated 22.9.2018 (supra) is reproduced assessee under:-

“4. The brief facts on the issue are that assessee had debited amount of Rs. 1,04,25,000/- to the Profit & Loss Account as interest payable to the Punjab Government on amount of Rs. 5.5 Crores received by the assessee as assistance in the form of loan for setting up agro based project in the State of Punjab. The Assessing Officer has made addition of the said interest of Rs. 1,02,00,560/- after allowing 2% expenditure.

4(i) The ld. CIT(Appeals), after considering facts of the case and submissions of the assessee, noted that assessee had debited interest expenditure to the Profit & Loss Account as interest on loan taken from Punjab Government. As per provisions of Section 145(1) of the Income Tax Act, income under the head 'profit and gains of business or profession' or 'income from other sources' is to be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. The assessee is following cash system of accounting in respect of receipts from various projects on cash basis but the related expenditure is being claimed on accrual basis. The ld. CIT(Appeals), therefore, held that this amount claimed by the assessee is not allowable in view of explicit provisions of Section 145(1) of the Act. This ground was, accordingly, dismissed.

5. *The ld. CIT(Appeals) also considered the disallowance of interest while calculating book profits under section 115JB of the Act. The Assessing Officer added the amount of interest while calculating book profits for the purpose of Section 115JB of the Act. The ld. CIT(Appeals) noted that in the case of company, which is required to pay tax on book profits under section 115JB has to prepare its Profit & Loss Account in accordance with provisions of Part-II and Part-III of Schedule-VI to the Companies Act, 1956. In the case of the assessee, interest was received being credited on cash basis, whereas interest paid has been claimed on accrual basis and so the accounts were not in accordance with provisions of Schedule-VI to the Companies Act. Therefore, interest claimed in the Profit & Loss Account has to be added to the declared book profits to arrive at the correct figure of book profits and argument of the assessee was not correct. This ground was also dismissed.*

6. *After considering rival contentions, we are not inclined to interfere with the impugned order. The ld. counsel for the assessee admitted that assessee is a company who is following cash system of accounting in respect of receipts from various projects. He has also admitted that related expenditures are, however, claimed deduction on accrual basis. The provisions of Section 145(1) of the Act are, therefore, clearly applicable in the case of the assessee because income under the head 'profit and gains of business or profession' is to be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. The assessee is following cash system of accounting regularly in respect of all the interest amount, therefore, the related expenditure cannot be allowed on accrual basis.*

6(i) *Further, as regards calculation of book profit under section 115JB, the ld. CIT(Appeals) has given same reasoning and confirmed the addition. During the course of arguments, ld. counsel for the assessee was not able to point out any infirmity in the order of ld. CIT(Appeals) in dismissing the appeal of the assessee.*

7. Since assessee's counsel is not able to make out any case for the assessee, therefore, we do not propose to interfere with the orders of authorities below. The appeal of the assessee, therefore, stands dismissed.

In the result, appeal of the assessee is dismissed."

4. Therefore, following the aforesaid decision of the Tribunal dated 22.9.2016 (supra), rendered in the own case of the assessee for earlier assessment years from 2008-09 to 2010-11, we dismiss both the appeals filed by the assessee on identical issue.

5. In the result, both the appeals of the assessee are hereby dismissed.

Order pronounced in the Open Court on 15.11.2018.

Sd/-
(बी,आर.आर. कुमार / B.R.R. KUMAR)
लेखा सदस्य/ Accountant Member

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य /Judicial Member

Dated : 15.11.2018

"आर.के."

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar