

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

श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Dr. B.R.R.KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 406/CHD/2018

निर्धारण वर्ष / Assessment Year : 2012-13

The DCIT, Circle-1 Ludhiana	Vs. बनाम	M/s Majestic Auto Limited, C-48, Focal Point, Ludhiana
स्थायी लेखा सं./PAN NO: AABCM2162M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent
<i>Appeal against the order of CIT(A)-1, Ludhiana dated 24.01.2018</i>		

आयकर अपील सं./ ITA No. 799/CHD/2018

निर्धारण वर्ष / Assessment Year : 2013-14

The DCIT, Circle-1 Ludhiana	Vs. बनाम	M/s Majestic Auto Limited, C-48, Focal Point, Ludhiana
स्थायी लेखा सं./PAN NO: AABCM2162M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent
<i>Appeal against the order of CIT(A)-1, Ludhiana dated 16.03.2018</i>		

सुनवाई की तारीख/Date of Hearing : 01.11.2018

उदघोषणा की तारीख/Date of Pronouncement : . 2018

आयकर अपील सं./ ITA No. 804/CHD/2018

निर्धारण वर्ष / Assessment Year : 2014-15

The DCIT, Circle-1 Ludhiana	Vs. बनाम	M/s Majestic Auto Limited, C-48, Focal Point, Ludhiana
स्थायी लेखा सं./PAN NO: AABCM2162M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent
<i>Appeal against the order of CIT(A)-1, Ludhiana dated 16.03.2018</i>		

निर्धारिती की ओर से/Assessee by : Sh Subhash Aggarwal, Advocate

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

सुनवाई की तारीख/Date of Hearing : 01.11.2018

उदघोषणा की तारीख/Date of Pronouncement : 13.12 . 2018

आदेश/Order

Per Sanjay Garg, Judicial Member:

The captioned appeals have been preferred by the Revenue against the separate orders of the Commissioner of Income Tax (Appeals)-I, Ludhiana [hereinafter referred to as 'CIT(A)'] agitating the action of the CIT(A) in deleting the additions made by the Assessing officer on account of disallowance out of interest expenditure u/s 36(1)(iii) of the Income-tax Act, 1961 (in short 'the Act').

2. We have heard the rival contentions. A perusal of the orders of the CIT(A) reveals that the Ld. CIT(A) has given a categorical finding that assessee was possessed of sufficient own / interest free funds to cover the capital work in progress and capital advances. He, therefore, relying upon the decision of the Jurisdictional High Court in the case of 'Bright Enterprises Pvt Ltd Vs. CIT, Jalandhar' 381 ITR 107 and also considering the fact that the assessee had not borrowed any specific loans for the aforesaid capital advances and capital work in progress, deleted the additions so made by the Assessing officer.

3. The issue is now squarely covered by the various decisions of the High Courts including that of the decision of the Hon'ble Jurisdictional High Court in the case of 'Bright Enterprises Pvt. Ltd Vs. CIT, Jalandhar' (supra), 'CIT Vs. Kapsons Associates' (2016) 381 ITR 204 (P&H) and the latest decision of the Coordinate Bench of the Tribunal (incidentally consisted of both of us) in the case of 'ACIT Vs. Janak Global Resources Pvt Ltd' ITA No. 470/Chd/2018 order dated 16.10.2018, wherein, the issue

has been decided in favour of the assessee by also considering the decision of the Hon'ble Apex Court in the case of 'Hero Cycles Vs. CIT' 379 ITR 347 (SC) and also findings arrived in the case of Avon Cycles Ltd. Vs. CIT in ITA No.277 of 2013. The Hon'ble Courts have held that if the assessee is possessed of sufficient own interest free funds to meet the investments / interest free advances, then, under the circumstances, presumption will be that interest free advances / investments have been made by the assessee out of own funds / interest free funds.

In view of this, there is no merit in the appeals of the Revenue and the same are accordingly dismissed.

Order pronounced in the Open Court on 13.12.2018

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

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

Dated : .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