

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
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos. 1429/Chd/2010

निर्धारण वर्ष / Assessment Years : 2006-07

Vardhman Textiles Limited, Chandigarh Road, Ludhiana	बनाम	The Addl.CIT, Range- 1, Ludhiana
स्थायी लेखा सं./PAN NO: AABCM4692E		
<i>Appeal against the order of CIT(A)-1, Ludhiana dated 15.10.2010</i>		

आयकर अपील सं./ ITA No. 35/Chd/2011

निर्धारण वर्ष / Assessment Years : 2006-07

The ACIT, Circle 1, Ludhiana	बनाम	Vardhman Textiles Limited, Chandigarh Road, Ludhiana
स्थायी लेखा सं./PAN NO: AABCM4692E		
<i>Appeal against the order of CIT(A)-1, Ludhiana dated 15.10.2010</i>		

आयकर अपील सं./ ITA Nos. 270/Chd/2011

निर्धारण वर्ष / Assessment Years : 2007-08

Vardhman Textiles Limited, Chandigarh Road, Ludhiana	बनाम	The Addl.CIT, Range- 1, Ludhiana
स्थायी लेखा सं./PAN NO: AABCM4692E		
<i>Appeal against the order of CIT(A)-1, Ludhiana dated 30.12.2010</i>		

अपीलार्थी/Appellant		प्रत्यर्थी/Respondent
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आयकर अपील सं./ ITA No. 286/Chd/2011

निर्धारण वर्ष / Assessment Years : 2007-08

The ACIT, Circle 1, Ludhiana	बनाम	Vardhman Textiles Limited, Chandigarh Road, Ludhiana
स्थायी लेखा सं./PAN NO: AABCM4692E		
<i>Appeal against the order of CIT(A)-1, Ludhiana dated 30.12.2010</i>		

निर्धारिती की ओर से/Assessee by : Sh. Subhash Aggarwal, Advocate
& Shri Vineet Jain, CA

राजस्व की ओर से/ Revenue by : Sh. G.S. Phani Kishore, CIT DR

सुनवाई की तारीख/Date of Hearing : 18.12.2018

उदघोषणा की तारीख/Date of Pronouncement : 18.12.2018

आदेश/Order

Per Sanjay Garg, Judicial Member Bench:

These are cross appeals by the assessee and Revenue preferred against the separate orders of the Commissioner of Income Tax (Appeals)-1, Ludhiana [hereinafter referred to as CIT(A)] relating to respective assessment years.

2. Since the issues involved in all the appeals are identical, hence, the appeals have been heard together and are being disposed of by this common order. First, we shall deal with the appeal of the assessee in ITA No. 1429/Chd/2010 for assessment year 2006-07.

ITA No. 1429/Chd/2010 (A.Y. 2006-07).

3. The assessee in this appeal has taken the following grounds of appeal:-

- 1. That the Ld. CIT(A) has erred in law and on facts while treating interest income amounting to Rs.16517422/- as "Income from other sources" instead of "Income from Business and Profession".*
- 2. That the Ld. CIT(A) has erred in law and on facts while reducing profits of undertaking for calculating deduction u/s 10B, 80IB and 80IC by the following amounts:*

<i>Name of the unit</i>	<i>Anant Spinning Mills Unit 3</i>	<i>VSGM EOU</i>	<i>Auro Weaving Unit-2</i>	<i>Auro Wvg Unit-3</i>	<i>Auto Spinning Mills</i>	<i>Auto Textiles.</i>
<i>Deduction Claimed</i>	<i>10B</i>	<i>10B/80IB</i>	<i>80IB</i>	<i>80IB</i>	<i>80IC</i>	<i>80IC</i>
<i>Rent</i>	494567	249016	73301	38982	1032309	1072193
<i>Misc. Receipts</i>	238725		3482	1275	282989	696527
<i>DEPB/Duty Drawback</i>			370206		5820457	68903960
<i>Commission</i>	7141	1426			2771	
<i>Interest</i>	93264					

3. *That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld.AO. for reducing profits of units eligible for deduction u/s 10B, 80IB and 80IC by allocating Head office expenses.*
4. *That without prejudice to ground No. 3, the Ld. CIT(A) erred in law and on facts while allocating gross head office expenses instead of expenses net of income.*
5. *That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld. AO while taxing the capital receipt amounting TO Rs. 8,55,37,074/- on account of Sales Tax Exemption; Subsidy received from Government of Punjab as revenue receipt of the appellant.*
6. *Without prejudice to the ground (5) above, the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld. AO while taxing the capital receipt amounting to Rs. 8,55,37,074/- on account of Sales Tax Exemption/Subsidy received from Government of Punjab as 'Income from other Sources'.*
7. *The. CIT(A) erred in law and on the facts while directing the assessing officer to make disallowance under section 14A of The Income Tax Act w.r.t. dividend income earned by the assessee.*
8. *That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld.AO for disallowing foreign traveling expenses of wife of Chairman & Managing Director amounting to Rs. 11,46,863/-.*
9. *That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld.AO for not allowing premium*

payable on redemption of optionally convertible foreign currency bonds as revenue expenditure.

That the appellant craves leave to add/alter/amend any ground of appeal on or before the due date of hearing of appeal.

4. **Ground No.1:** Vide ground No.1, the assessee has agitated the action of the CIT(A) in treating the interest income amounting to Rs. 1,65,17,422/- as 'income from other sources' instead of 'income from business or profession' as was claimed by the assessee.

5. The facts relating to the above issue are that the Assessing officer had treated interest from customers and suppliers amounting to Rs. 355.28 lacs and further interest from bank & others amounting to Rs. 165.17 lacs as 'income from other sources' as against the claim of the business income. The Ld. CIT(A) held that since income on the delayed payment from customers and suppliers was intrinsically linked with the business activity of the assessee, hence, the same was to be treated as business income of the assessee, whereas, the interest received from bank & others was directed to be treated as 'income from other sources'.

6. We have heard the rival submissions on this issue. We do not find any infirmity in the order of the CIT(A) so far as the treatment of the interest from customers and suppliers as 'business income' and interest from bank and other sources as 'income from other sources' is concerned. However, a contention has been raised by the Ld.

Counsel for the assessee that where there is a direct nexus between the interest income earned and the interest expenditure incurred in this respect, the assessee should be allowed netting of the same before computing the same under the head 'income from other sources'. We find merit in the above contention of the assessee and we order accordingly.

7. **Ground No.2** : Vide ground No.2, the assessee has agitated the action of the CIT(A) in directing the Assessing officer to reduce the eligible profits of the undertaking for the purpose of deduction u/s 10B, 80IB and 80IC of the Income-tax Act, 1961 (in short 'the Act') in respect of other income received.

8. The Ld. Counsel for the assessee has given details of other income which is mentioned in the ground No. 2 itself. A perusal of the aforesaid details will reveal that the assessee claimed rent, Misc. receipts, DEPB, commission and interest income as 'other income' and has claimed deductions in respect of the same u/s 10B, 80IB and 80IC etc., as applicable in respect of the respective unit. The Ld. Counsel for the assessee has fairly agreed that except the brokerage from ocean freight, the other items do not constitute income derived from undertaking. So far as the brokerage of ocean freight is concerned, the Ld. Counsel for the assessee has submitted that the same is nothing but refund / rebate out of the freight expenditure

incurred by the assessee which has resulted in increase in income of the assessee.

9. The Ld. DR also could not rebut the aforesaid arguments of the assessee

10. In view of this, out of the items mentioned in ground No.2, the Assessing officer is directed to consider the rebate on ocean freight as income of the undertaking of the assessee. However, the findings of the lower authorities in respect of the remaining items is affirmed.

11. **Ground Nos. 3 & 4** : Vide these grounds, the assessee has agitated the action of the CIT(A) in directing the Assessing officer in confirming the action of the CIT(A) for reducing profits of the units eligible for deductions u/s 10B, 80IC and 80IB of the Act by allocating Head office expenses. The Ld. CIT(A) while holding so, however, has directed the Assessing officer to allocate the net Head office expenses and not the gross net expenditure. We do not find any infirmity in the order of the CIT(A) on the issue and the same is accordingly upheld.

12. **Ground No.5** : Vide ground No.5, the assessee has agitated the action of the CIT(A) in taxing the amount received on sale tax exemption / subsidy. Both the Ld. representatives of the parties have fairly submitted that the issue is now covered by the various decisions of the Hon'ble High Courts including the decision of the Hon'ble

Supreme Court in 'CIT-I Vs. M/s Chaphalkar Brothers, Pune and Others' in Civil Appeal Nos. 6513-6514 of 2012 order dated 7.12.2017, wherein, it has been held that the aforesaid receipt is a capital receipt and not exigible to taxation. We hold accordingly and the lower authorities are directed not to tax the aforesaid receipts.

13. **Ground No.7** : Vide ground No. 7, the assessee has agitated the action of the CIT(A) in directing the Assessing officer to make disallowance u/s 14A of the Act on the actual expenditure incurred by the assessee.

14. At the outset, Ld. Counsel for the assessee has submitted that the issue is squarely covered in favour of the assessee by the decision of the Hon'ble Jurisdictional High Court in the case of the assessee in ITA No.141 of 2012 dated 31.7.2013 and has pointed out that in the year 2000-01, the assessee had earned dividend income of Rs. 2.16 crores whereupon the disallowance of Rs. 1 lac was affirmed by the Hon'ble High Court. The Ld. Counsel for the assessee has further submitted that for the year under consideration the assessee had earned dividend income of Rs. 1.59 crores.

15. The Ld. DR, on the other hand has, however, relied on the findings of the lower authorities.

16. We have considered the rival submissions. The assessment year involved admittedly is 2006-07. The Hon'ble Bombay High Court in the case of 'Godrej & Boyce Manufacturing Co. Ltd.' 234 CTR 1 (Bom.) held that Rule 8D of the Income Tax Rules is applicable from the assessment year 2008-09 onwards and that for the year prior to assessment year 2008-09, the disallowance u/s 14A is to be made on some reasonable basis. Considering the overall facts and circumstances of the case and the respective submissions of the Ld. representatives of the parties, we confirm the disallowance of Rs. 2 lacs u/s s 14A of the Act on this issue for the year under consideration. The remaining disallowance made by the lower authorities is ordered to be deleted.

17. **Ground No. 8** : Vide this ground the assessee assessee has agitated the disallowance of foreign travel expenses of Rs. 11,46,863/- in respect of expenditure on foreign travelling of the wife of the Chairman & Managing Director, pleading that she had accompanied him for business purpose and that she had duly assisted for procuring business.

18. On the other hand, the Ld. DR has submitted that since the wife of the Managing Director of the assessee is neither employee nor the director of the company, hence, the expenditure relating to her foreign travelling should be disallowed.

In rebuttal, the Ld. Counsel for the assessee has submitted that the company had passed a resolution authorizing the director of the company to accompany his wife on the foreign travel and further that she had duly helped the director in his business tour.

19. Considering the over all facts and circumstances of the case, we are of the view that the interest of justice will be well served if 50% of the expenditure incurred on the foreign traveling of the wife of the director is allowed. We, therefore, confirm the disallowance upto the extent of 50% of the aforesaid amount and the remaining 50% of the disallowance on this issue is ordered to be deleted.

20. **Ground No. 9** : Vide ground No.9, the assessee has agitated the action of the CIT(A) in confirming the action of the Assessing officer in not allowing premium payable on redemption of optionally convertible foreign currency bonds as Revenue expenditure.

21. The Ld. Counsel for the assessee in this respect has relied upon the decision of the Hon'ble Jurisdictional High Court in the case of 'CIT Patiala Vs. Industrial Cables (P) Ltd'. reported in (2007) 162 taxman 272 (P&H), wherein, the issue is as to whether the premium paid on expiry / redemption of debentures was to be treated as capital expenditure or Revenue expenditure. The Hon'ble Court while relying upon the other case laws held that the said premium paid by the assessee on redemption of debentures as Revenue expenditure. The Ld.

counsel has further relied upon the decision of the Hon'ble Supreme Court in the case of 'Taparia Tools Ltd Vs. JCIT' (2015) 7 taxman 361 wherein, the Hon'ble Supreme Court has held that such type of premium / interest paid to debenture holders was to be allowed as Revenue expenditure in the year of payment itself. Admittedly, in the year under consideration, the assessee has booked the aforesaid expenses payable which was paid in the assessment year 2011-12. In view of this, the said expenditure is to be allowed in the year of payment. Subject to the above observation, this ground of the assessee's appeal for the year under consideration is hereby dismissed.

22. Apart from the above, the assessee has raised an additional ground of appeal which reads as under:-

“That the authorities below have erred in treating the interest reimbursement of Rs. 24,64,44,644/- under Technology Upgradation Fund Scheme (TUFS) as Revenue receipt instead of capital receipt.”

23. The assessee has claimed that interest reimbursement of Rs. 24,64,44,644/- received under 'Technology Upgradation Fund Scheme' (TUFS) should be treated as capital receipt instead of Revenue receipt as treated by the lower authorities.

Admittedly, this ground has been taken as addition ground which has not been examined by the lower authorities. The Ld. Counsel for

the assessee submitted that in the earlier years also this issue has been restored to the file of the CIT(A) for decision afresh.

24. Considering the above submissions of the Ld. Counsel for the assessee, this additional ground is restored to the file of the CIT(A) for adjudication afresh in accordance with law taking into consideration the relevant case laws as may be available or cited before him.

The appeal of the assessee is accordingly treated as partly allowed.

ITA No. 35/Chd/2011 (A.Y.2006-07)

25. Now coming to the Revenue appeal in **ITA No. 35/Chd/2011 (A.Y.2006-07)**, in its appeal, has taken the following grounds:-

- 1. That the Id. CIT(A) has erred in law and facts in directing the A.O. to consider interest income received by the assessee on delayed payments from customers as 'Business Income' instead of 'Income from Other Sources' as considered by the A.O.*
- 2 (i) That the Id. CIT(A) has erred in law and facts in directing the A.O. to treat the interest received from the customers and suppliers to be the income derived from industrial undertaking and eligible for exemption u/s 10B and deduction u/s 80IB and 80IC.*
- (ii) That the Id. CIT(A) has erred in law and facts in directing the A.O. to allow deduction u/s 80IB and 80IC and exemption 10B on profits after excluding loss debited in the accounts in respect of which the Insurance claims were received.*
- (iii) That the Id. CIT(A) has erred in law and facts in directing the A.O. not to reduce foreign exchange fluctuation gain from eligible profits of units*

eligible for deduction u/s 80IB and 80IC and exemption u/s 10B.

3 . The Id. CIT(A) has erred in law and facts in directing the A.O. to allocate the eligible head office income to the respective unit for calculating deduction u/s 80IB and section 80IC and exemption u/s 10B.

4 . That the Id. CIT(A) has erred in law and facts in allowing the deduction u/s 80IB on profits of unit named Vardhman Spinning & General Mills (100% EOU) on which exemption u/s 10B has been claimed.

5 . That the Id. CIT(A) has erred in law and facts in deleting the addition of Rs. 16,43,668/- made u/s 14A by the A.O. on proportionate basis out of personal, administrative and financial expenses for earning of dividend income.

6. That the Id. CIT(A) has erred in law and facts in treating the income from Sale of Shares amounting to Rs.2,35,69,012/- as income from Capital gain instead of income from speculative Business as considered by the Assessing Officer in view of explanation to section 73.

7. That the order of the Id. CIT(A) be set aside and that of the A.O. be restored.

8. That the appellate craves leave to add or amend any ground of appeal before it is finally disposed off.

26. Ground No.1 :The Revenue vide ground No.1 of the appeal has agitated the action of CIT(A) in deleting the interest received on account of delayed payment from customer's and suppliers as business income instead of income from other sources.

In view of our findings given above awhile deciding ground No.1 of the assessee's appeal in ITA No. 1429/Chd/2010, we do not find any infirmity in the order of the CIT(A) on this issue. Ground No.1 of the Revenue's appeal is accordingly dismissed

27. Ground No.2 : Ground No.2 raised by the Revenue is in three parts. The Revenue in the Ist part has agitated the action of the CIT(A) in directing the Assessing officer to treat the interest received from the customers and suppliers to be income derived from industrial undertaking and eligible for exemption u/s 10B and deduction u/s 80IB and 80IC of the Act. Since we have already held that the interest income received on delayed payment is in fact part of the sale consideration / receivable from the customers and we have also held that the same to be treated as business income and since the aforesaid receipts are relating to the sale receipts of the assessee of the produced manufactured, hence, we do not find any infirmity in the order of the CIT(A) in this respect.

In the second part of ground No.2, the Revenue has agitated the action of the CIT(A) in directing the Assessing officer to allow deduction u/s 80IB and 80IC and exemption u/s 10B on profit after excluding loses debited in the accounts in respect of which insurance claims were received. The Ld. Counsel for the assessee in this respect has invited our attention to the paper book page 2 wherein the details of the items has been given on which insurance claim was received. However, after perusal of the same, it is not clear as to which of the items constituted capital assets and which of the items constituted trading asset of the assessee. We therefore, restore this issue to the file of the assessee to bifurcate the items between capital assets and trading assets and to allow the claim in respect of insurance claim received on trading assets only.

28. The third part of ground No.2 is against the action of the CIT(A) in directing the Assessing officer not to reduce foreign exchange fluctuation gain from eligible profits of units eligible for deduction u/s 80IB and 80IC and exemption u/s 10B of the Act.

29. The Ld. Counsel for the assessee has submitted that the foreign exchange fluctuation gain is in respect of export receipts / receivable of the assessee and any gain in respect of receivable on account of foreign exchange fluctuation in fact contributes to the profits of the assessee from the sale/ export of the products. We find force in the aforesaid contention. We do not find any infirmity in the order of the CIT(A) in this respect also.

30. **Ground No. 3** :Vide ground No.3, the Revenue has agitated the action of the CIT(A) in directing the Assessing officer to allocate the eligible Head office expenses to the respective units for reducing the same out of eligible profits of assessee for claim of exemption / deduction u/s 80IB, 80IC and u/s 10B of the Act.

This issue has already been discussed while adjudicating ground No.4 of the assessee's appeal wherein we have upheld the order of the CIT(A) on this issue.

In view of this, ground No.3 of the Revenue's appeals is hereby dismissed.

31. **Ground No.4** : Vide ground No.4, the Revenue has agitated the action of the CIT(A) in allowing deduction u/s 80IB in respect of unit which has already claimed exemption u/s 10B of the Act. The Ld. Counsel for the assessee has submitted that the assessee has claimed deduction u/s 80IB in respect of unit Vardhman Spinning & General Mills on the balance amount, after excluding the amount upon which the exemption u/s 10B of the Act has been claimed.

In view of this, it is not a case of double deduction, hence we do not find any infirmity in the order of CIT(A) on this issue also. The order of the CIT(A) on this issue is accordingly upheld.

32. **Ground No.5**: The Revenue vide this ground has agitated the action of the CIT(A) in reducing / deleting the addition made by the Assessing officer u/s 14A of the Act on account of expenditure incurred for earning of tax exempt dividend income. This ground has already been dealt with while adjudicating ground No.7 of the assessee's appeal wherein after considering the over facts and circumstances of the case, we have directed to restrict the disallowance to Rs. 2 lacs on this issue. We order accordingly.

33. **Ground No.6**: Vide ground No.6, the assessee has agitated the action of the CIT(A) in treating the income from sale of shares as income from capital gains instead of income from speculative loss as assessed by the Assessing officer.

34. After considering the rival submissions of the parties and after going through the impugned order of the CIT(A), we are of the view that the Ld. CIT(A) has rightly held that it was not a case of speculative / trading in sale and purchase of the shares. The Ld. CIT(A) therefore, has rightly treated the same as income from capital gains while following the order of his predecessor for assessment year 2005-06. In view of this, we do not find any infirmity in the order of the CIT(A) on this issue.

35. **Ground Nos. 7 & 8** : These grounds are general in nature and do not require any specific adjudication.

In view of our findings given above, both the appeals of the assessee and Revenue are treated as partly allowed.

ITA No. 270 & 286/Chd/2011 (A.Y.2007-08)

36. The assessee in its appeal (**ITA No. 270/Chd/2011**) has taken the following grounds of appeal :-

1. *That the Ld. CIT(A) has erred in law and on facts while treating Interest income amounting to Rs. 11,50,89,979/- as 'Income from other sources'¹ instead of "Income from Business and Profession".*
2. *That the Ld. CIT(A) has erred in law and on facts while reducing profits of Undertaking for calculating deduction u/s IOB. 80IB and 80IC by the following amounts:*

Name of the unit	Anant Spinning Mills Unit3	VSGM EOU	Auro Weaving Unit-2	Auro Wvg Unit-3	Auro Spinning Mills	Auro Textiles	Arisht Spinning Mills
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Deduction claimed	10B	10B/ 80IB	80IB	80IB	80IC	80IC	80IC
Interest from Bank	304						
Interest from others	103854					1627	
DEPB			142386	97833	134407	769738	2056766
Duty Drawback	2447280	2755000	293032	201342	13696283	8894379	11284064
Rent	471200	235503	80710	43397	12359452	1593793	636884
Misc. Receipts	1406002	978			51888	586025	53682
Commission	603	1996			1083		94395
Total	4429243	2993477	516128	342572	26243113	11845562	14125791

3. That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld. AO for reducing profits of units eligible for deduction u/s 10B, 80IB and 80IC by allocating Head office expenses as under:

Anant-III	Vsgm(Eou)	Auro Wev.II	Auro Wev.III	Auro Spg.	Auro Tex.	Arisht
6449934	6077375	3632454	1746372	10711082	36161544	18348549

4. That without prejudice to ground No. 3, the Ld. CIT(A) erred in law and on facts while allocating gross head office expenses instead of expenses net of income.
5. That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld.AO while taxing the capital receipt amounting to Rs. 9,87,63,065/- on account of Sales Tax Exemption/Subsidy received from Government of Punjab as revenue receipt of the appellant.
6. Without prejudice to the ground (5) above, the Ld. CTT(A) erred in law and on the facts while confirming the action of Ld.AO while taxing the capital receipt amounting to Rs. 9.87,63,065/- on account of Sales Tax Exemption/Subsidy received from Government of Punjab as 'Income from other Sources'.
7. That the Ld. CIT(A) erred in law and on facts while confirming the action of Ld.AO while misinterpreting and applying the provisions of Rule 8D of Income Tax Rules as the said provision is effective from Assessment year 2008-09 only.

8. *That the Ld. CIT(A) erred in law and on facts while confirming the action of the Ld.AO in allocating and disallowing expenses amounting to Rs.34,28,175/- for earning dividend income under Section 14A of the Act read with Rule 8D of Income Tax Rules.*
9. *That the Ld. CIT(A) erred in law and on facts while confirming the action of the Ld.AO in allocating proportionate indirect personnel, administrative and financial expenses amounting to Rs.22.84,306/- to dividend income.*
10. *That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld.AO for disallowing foreign traveling expenses of wife of Chairman & Managing Director amounting to Rs. 5,16,573/-.*
11. *That the Ld. CIT(A) erred in law and on the facts while confirming the action of Ld.AO for not allowing premium payable on redemption of optionally convertible foreign currency bonds as revenue expenditure.*
12. *That the appellant craves leave to add/alter/amend any ground of appeal on or before the due date of hearing of appeal.*

Hence the appeal may kindly be allowed, necessary reliefs as per aforesaid grounds may kindly be granted and/or other reliefs deemed fit and proper under the circumstances of the case may kindly be granted.

37. Apart from the above grounds, the assessee has also taken as additional ground of appeal, which reads as under:-

“That the authorities below have erred in treating the interest reimbursement of Rs. 37,77,75,988/- under Technology Upgradation Fund Scheme (TUFS) as Revenue receipt instead of capital receipt.”

38. The Revenue in its appeal, in **ITA No.286/Chd/2011** has taken following grounds of appeal:-

1. *That the Id. CIT(A) has erred in Law and facts in directing the A.O. to consider interest income received by the assessee on delayed payments from customers as 'Business Income, instead of 'Income from Other Sources' as considered by the A.O.*

- 2 (i) *That the Id. CIT(A) has erred in law and facts in directing the A.O. to treat the interest received from the customers and suppliers to be the income derived from industrial undertaking and eligible for exemption u/s 10B and deduction u/s 801B and 801C.*

- (ii) *That the Id. CIT(A) has erred in law and facts in directing the A.O. to allow deduction u/s 801B and 801C and exemption 10B on profits after excluding loss debited in the accounts in respect of which the insurance claims were received.*

- (iii) *That the Id. CIT(A) has erred in law and facts in directing the A.O. not to reduce foreign exchange fluctuation gain from eligible profits of units eligible for deduction u/s 801B and 801C and exemption u/s 10B.*

3. *The Id. CIT(A) has erred in law and facts in directing the A.O. to allocate the eligible head office income to the respective unit for calculating deduction u/s 801B and sec 801C and exemption u/s 10B.*

4. *That the Id. CIT(A) has erred in law and facts in allowing the deduction u/s 801B on profits of unit named Vardhman Spinning & General Mills (100% EOU) on which exemption u/s 10B has been claimed.*

5. *That the order of the Ld. CIT(A) be set aside and that of the A.O. be restored.*
- 6.
7. *That the appellant craves leave to add or amend any ground of appeal before it is finally disposed off.*

39. Both the Ld. representatives of the parties stated at bar that all the issues either by the assessee or by the Revenue are identical to that have been taken for assessment year 2006-07, hence our findings

arrived at in respect of each of the issue will apply mutatis-mutandis to the issues taken by the assessee as well as by the Revenue for assessment year under consideration i.e assessment year 2007-08. It is clarified that one of the issue which is identical to assessment year 2006-07 in relation to the disallowance u/s 14A of the Act, there is a difference in figure of tax exempt dividend income earned by the assessee during the year. The assessee during the year had earned dividend income of Rs. 2.19 cores whereas in the assessment year 2006-07, the assessee had earned dividend income of Rs. 1.59 crores.

40. Considering the facts and circumstances, the disallowance u/s 14A of the Act is restricted to Rs. 2.50 lacs for the year under consideration. As discussed above, our findings as arrived at in the assessment year 2006-07 on the remaining issues will apply to the issues raised in appeals relating to assessment year 2007-08 also. Accordingly, the appeals of the assessee as well of the Revenue are treated as partly allowed.

Order dictated and pronounced in the Open Court immediately on completion of hearing.

Sd/-

(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

Dated : 18.12. 2018

“आर.के.”

Sd/-

(संजय गर्ग / SANJAY GARG)

न्यायिक सदस्य/ Judicial 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

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar