

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "एकल सदस्यीय", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'SMC, CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: Sh. SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ ITA NO. 1003/CHD/2018
निर्धारण वर्ष / Assessment Year : 2014-15

M/s Ashok Kumar & Co. Mercantile Pvt. Ltd., Rajpura Road, Civil Lines, Ludhiana.	बनाम	The ACIT, Circle VII, Ludhiana.
स्थायी लेखा सं./PAN NO: AAECA7622H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Ashok Kumar Juneja
राजस्व की ओर से/ Revenue by : Shri Manjit Singh, Sr.DR
सुनवाई की तारीख/Date of Hearing : 24.12.2018
उदघोषणा की तारीख/Date of Pronouncement : 21.01.2018

आदेश/ORDER

The present appeal has been preferred by the assessee against the order dated 22.05.2018 of the Commissioner of Income Tax (Appeals)-3, Ludhiana [hereinafter referred to as CIT(A)].

2. The assessee has taken the following grounds of appeal:
 - i) *That the learned CIT (A) has erred in Law & Facts being unjustifiably upheld the additions wrongly made by Ld. A.O.*
 - ii) *That the addition on account of disallowance of interest amounting to Rs. 701500/- is wrong and illegal, since the factual position has totally been ignored by the A.O as well as by the Ld. CIT (A).*
 - iii) *That the interest u/s 234A has wrongly been charged by Ld. A.O. since the return has been filed before the due date of filing of return i.e. on 29.11.2014. Hence, no interest u/s 234A can be levied.*
 - iv) *That the appellant craves to amend, alter, change any of the ground(s) of appeal.*
3. A perusal of the grounds of appeal shows that the main grievance of the assessee is against the confirmation of disallowance of interest amounting to Rs. 7,01,500/-. The

AO during the assessment proceedings noticed that the assessee had made investment in equity shares of its sister concern namely M/s AKC Motors Pvt. Ltd., Ludhiana. He further noted that the assessee had used borrowed funds for the aforesaid investment. He held that since the aforesaid investment in the share of the sister concern was not relevant to the business activity of the assessee, therefore assessee was not entitled to the claim of the interest expenditure incurred for the said purpose. He, accordingly, invoking the provisions of Section 36(1)(iii) of the Act made the impugned disallowance of Rs. 7,01,500/- out of interest expenditure claimed.

4. The assessee preferred the appeal against the said disallowance before the CIT(A) but remained unsuccessful.

5. As per the written submissions, the contention of the assessee has been that the aforesaid investment in sister concern was made out of business expediency. Further that the assessee did not use the borrowed funds for the same. That the aforesaid investment was made out of own funds of the assessee. Reliance has also been placed on the decision of the Hon'ble Supreme Court in the case of Hero Cycles (P) Ltd. Vs CIT (2015) 63 Taxmann 308 (S.C)

6. The ld. DR has submitted that the assessee could not bring reliable evidence before the lower authorities to prove that there was any business expediency for the aforesaid investment made in the shares of sister concern and further that the assessee had used its own/surplus funds for making the aforesaid investment.

7. On going through the orders of the lower authorities, this Bench is of the view that the matter needs a fresh examination by the AO. The impugned order of the CIT(A) is, therefore, set aside. The matter is restored to the file of the AO to examine the aforesaid pleas of the assessee and pass a speaking order in accordance with law after giving an opportunity of being heard to the assessee.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court.

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

Dated: 21.01.2019
"Poonam"

आदेश की प्रतिलिपि अद्योषित/ 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