

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'SMC', NEW DELHI
BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER

ITA No. 3127/Del/2017
Assessment Year: 2012-13

JHAM PLASTIC INDUSTRIES,
E-18, SANJAY COLONY,
SECTOR-23, FARIDABAD
(PAN: AABFJ8407H)
(APPELLANT)

VS.

ACIT, CIRCLE-II,
FARIDABAD

(RESPONDENT)

Assessee by : Sh. Akash Deepak, CA
Revenue by : Sh. SL Anuragi, Sr. DR.

ORDER

The Assessee has filed the Appeal against the Order dated 06.3.2017 of the Ld. CIT(A), Faridabad pertaining to assessment year 2012-13 on the following grounds:-

1. That the AO has erred in law in making the addition of Rs. 10,11,640/- to the income of the assessee and this addition made to the income need to be quashed. Disallowance u/s. 36(1)(iii) on account of interest paid on advances of Rs. 84,30,330/- is incorrect as average investment during the year is only Rs. 46,45,743/-.
2. That the appellant has presented all the documents for explaining the genuineness of the transaction and the worthiness of the person.

That the appellant craves for the permission to add, delete or amend the grounds of appeal before or at the time of hearing of the appeal.

2. The brief facts of the case are that assessee is a partnership firm carrying on the business of manufacturing and trading of plastic components at E-18, Sanjay Colony, Sector-23, Faridabad. The assessee filed return of income for AY 2012-13 declaring total income of Rs. 20,79,670/-. The case of the assessee was selected for scrutiny and AO made the additions of Rs. 25,52,270/- to the returned income and assessed the income at Rs. 46,31,940/- u/s. 143(3) of the Income Tax Act, 1961 (In short "Act") vide order dated 11.2.2015. Against the said assessment order, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 6.3.2017 has partly allowed the appeal of the assessee. Aggrieved with the impugned order, assessee is in appeal before the Tribunal.

3. During the hearing, Ld. counsel for the assessee has stated that AO has erred in law in making the addition of Rs. 10,11,640/- to the income of the assessee and this addition made to the income need to be quashed. He further submitted that disallowance u/s. 36(1)(iii) on account of interest paid on advances of Rs. 84,30,330/- is incorrect as average investment during the year is only Rs. 46,45,743/-. It was further submitted that the assessee has presented all the documents for explaining the genuineness of the transaction and the worthiness of the

person, which was not properly considered by the authorities below. Hence, he requested to delete the addition confirmed by the Ld. CIT(A) and allow the appeal of the assessee.

4. On the other hand, Ld. DR relied upon the order of the Ld. CIT(A) and stated that he has passed a well reasoned order, which does not need any interference.

5. I have heard both the parties and perused the records especially the impugned order. It is noted that AO has made the addition of Rs. 10,11,640/-, by invoking the provisions of section 36(1)(iii) of the Act. The assessee has incurred interest expenses / financial expenses to the tune of Rs. 51,24,329/- and on the other hand the assessee has invested a sum of Rs. 84,30,330/- as advances for purchasing industrial plots. The AO has disallowed interest @ 12% on a sum of Rs. 84,30,330/- under the provisions of section 36(1)(iii) of the Act. However, Ld. CIT(A) has observed that it is not the case of the assessee that the funds were advanced for business expediency. From the records, it is clear that the advances were made for the acquisition of capital asset and the capital asset has not been put to use during the year. The assessee has also been unable to establish that the advances were made out of interest free deposits. Even the assessee has not provided any details of the interest free funds available with him, if it all before the lower authorities. Thus in view of these facts and circumstances, in my considered opinion, Ld. CIT(A) has rightly deleted the addition in dispute, which also does not

need any interference on my part, hence, I uphold the action of the Ld. CIT(A) on the issue of dispute and reject the ground raised by the assessee.

6. In the result, the Appeal of the Assessee is dismissed.

Order pronounced on 15-02-2019.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date: 15/02/2019

SRBhatnagar

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1. Appellant 2. Respondent 3. CIT 4. CIT (A) 5. DR, ITAT

By Order,

Assistant Registrar, ITAT, Delhi Benches