

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी”, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
CHANDIGARH BENCH ‘B’, CHANDIGARH

श्री संजय गर्ग, न्यायकि सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य  
BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER  
AND SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ 530/Chd/2012

निर्धारण वर्ष / Assessment Year : 2008-09

M/s Vardhman Yarns & Threads Ltd., Ludhiana	बनाम	The A.C.I.T., Circle-1, Ludhiana.
स्थायी लेखा सं./PAN NO: AABCM4692E		

आयकर अपील सं./ ITA No.569/Chd/2012

निर्धारण वर्ष / Assessment Year : 2008-09

The A.C.I.T., Circle-1, Ludhiana.	बनाम	M/s Vardhman Yarns & Threads Ltd., Ludhiana
स्थायी लेखा सं./PAN NO: AABCM4692E		

आयकर अपील सं./ 1159/Chd/2013

निर्धारण वर्ष / Assessment Year : 2009-10

M/s Vardhman Yarns & Threads Ltd., Ludhiana	बनाम	The D.C.I.T., Circle-1, Ludhiana.
स्थायी लेखा सं./PAN NO: AABCM4692E		

आयकर अपील सं./ ITA No.2/Chd/2014

निर्धारण वर्ष / Assessment Year : 2009-10

The A.C.I.T., Circle-1, Ludhiana.	बनाम	M/s Vardhman Yarns & Threads Ltd., Ludhiana
स्थायी लेखा सं./PAN NO: AABCM4692E		

निर्धारिती की ओर से/Assessee by: Shri Subhash Aggarwal, Adv.

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

सुनवाई की तारीख/Date of Hearing : 13.12.2018

उदघोषणा की तारीख/Date of Pronouncement: 11.03.2019

**आदेश/ORDER****PER BENCH:**

These cross appeals by the assessee as well as by the Revenue have been 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. All the above appeals were earlier decided vide common order of the Tribunal dated 13.7.2017. However, thereafter the assessee moved Miscellaneous Applications bearing numbers MA No.98/Chd/2017 in ITA No.530/Chd/2012, MA No.99/Chd/2017 in ITA No.569/Chd/2012, MA No.100/Chd/2017 in ITA No.1159/Chd/2013 & MA No.101/Chd/2017 in ITA No.2/Chd/2014 respectively pleading therein that while adjudicating the aforesaid appeals vide common order dated 13.7.2017, the following additional ground of appeal taken by the assessee has remained unadjudicated:

*“That the Ld. AO has erred in not treating the interest reimbursement under TUF Scheme as capital receipt”*

3. After hearing the Ld. Representatives of the parties the aforesaid Miscellaneous Applications were decided vide common order dated 18.6.2018, whereby the plea of the assessee that the aforesaid additional ground taken by the assessee remained unadjudicated, was found correct. Therefore, consolidated order dated 13.7.2017 was recalled on the limited point of adjudication of the above additional

ground as to whether the interest reimbursement under TUF Scheme is capital receipt or not.

4. In view of the aforesaid, common order dated 18.6.2018 passed in the aforesaid MA Nos.98/Chd/2017 & Others, these appeals were heard on limited issue as to whether the reimbursement of interest under TUF Scheme is capital receipt or not. At the outset, both the Ld. Representatives of the parties have submitted that in the case of sister concern of the assessee, namely Vardhman Textile Limited, Ludhiana Vs. Addl. CIT in ITA Nos.1429/Chd/2010 & Others decided vide common order dated 18.12.2018, wherein while adjudicating the identical additional ground, taken by the assessee, the issue has been restored to the file of the CIT(A), observing as under:

*“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 maybe available or cited before him.”*

4. Since the aforesaid additional ground taken by the assessee in these appeals also has been taken for the first time and the same has not been looked into by the lower authorities, hence, following the order passed in the case of sister concern of the assessee, this limited issue is restored back to the file of the CIT(A) for decision afresh in similar terms and in accordance with law. However, our findings given vide order dated 13.7.2017 on other issues will remain unchanged and the adjudication on the aforesaid issue by the CIT(A) will not have any bearing on our findings given on other issues vide order dated 13.7.2017.

5. In the result, all the cross appeals are disposed off in the above terms.

Order pronounced in the Open Court.

Sd/- <b>अन्नपूर्णा गुप्ता</b> <b>(ANNAPURNA GUPTA)</b> लेखा सदस्य/Accountant Member	Sd/- <b>संजय गर्ग</b> <b>(SANJAY GARG)</b> न्यायकि सदस्य/Judicial Member
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**दिनांक /Dated: 11<sup>th</sup> March, 2019**

**\*रती\***

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