

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER  
AND SH. N. K. CHOUDHRY, JUDICIAL MEMBER

**I. T. A. Nos. 92 & 93/(Asr)/2018**  
Assessment Years: 2013-14 & 2014-15

Surya Automobiles Pvt. Ltd., vs. Asstt. Commissioner of Income  
Hanumangarh Road, Tax, Circle-II, Bathinda  
Abohar-152116

[PAN: AAFCS 2711N]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. P. N. Arora (Adv.)

Respondent by: Sh. Charan Dass (D.R.)

Date of Hearing: 06.03.2019

Date of Pronouncement: 08.04.2019

**ORDER**

Per Sanjay Arora, AM:

This is a set of two Appeals by the Assessee directed against the common Order by the Commissioner of Income Tax (Appeals), Bathinda ('CIT(A)' for short) dated 13.12.2017, partly allowing the assessee's appeals for two successive years, being Assessment Years (AYs.) 2013-14 and 2014-15, contesting its' assessments for these years vide orders under section 143(3) of the Income Tax Act, 1961 ('the Act' hereinafter) dated 27.01.2016 and 23.09.2016 respectively.

2. The appeals raising common issue/s, were posted for hearing and, accordingly, heard together. The same are also being disposed of per a common order for the sake of convenience.

3. The only issue arising in these appeals is the sustainability in law, in the facts and circumstances of the case, of the disallowance u/s. 36(1)(iii) for the relevant years, made in the sum of Rs.2,14,948 and Rs.3,44,431 for AYs. 2013-14 and 2014-15 respectively. The same being *qua* the same loans/advances, the facts as discussed and the arguments made would apply to both.

4. The brief facts of the case are that loans/advances at Rs.17,91,255 were made during the previous year relevant to AY 2013-14 to one, Aditi Saneja and Bharat Saneja. The same being found as not for any business purpose, the Assessing Officer (AO) disallowed the interest on borrowed capital u/s. 36(1)(iii); the assessee having claimed interest expenditure at Rs.23,76,146 and Rs.51,03,498 for the two successive years respectively. The same being confirmed in first appeal/s, the assessee has preferred second appeal/s.

5. We have heard the parties, and perused the material on record.

The assessee's principal argument is that it has sufficient interest-free funds; the profit for the first year, i.e., in which the advances were made, itself being at Rs.76.21 lacs, i.e., sufficient to cover the impugned advances made. The argument, attractive at first blush, is misplaced. This is as profit does not by itself signify availability of liquid funds, for them to be transmitted to another. It is the cash flow statement for the year that would exhibit with some accuracy the financing pattern, i.e., of various assets. Even as observed by the Bench during hearing, the assessee has during this year (AY 2013-14) repaid borrowings to the extent of Rs.196.93 lacs, which should explain the avenue of the cash profit or, more broadly speaking, the cash inflows for the year.

A mere browse of the balance-sheet as at 31.03.2013 (PB pgs.13-35), however, shows no fresh borrowings, save one, for the year; the assessee having,

as observed earlier, in fact substantially reduced borrowings during the year (refer Note 3, 4 to the Balance Sheet as at 31/03/2013/PB pg. 27). The only fresh advance contracted during the year is from Hero Fincorp. Ltd., New Delhi against the letter of credit and, thus, applied for business purposes. *How, then, one may ask, could the loan/advance/s made during the year possibly be ascribed to borrowed capital?* Clearly, therefore, the impugned advances have been made out of other (interest-free) sources, including equity capital (reserves and, since realized profits for the current year). There are no fresh advances during the following year (AY 2014-15); the interest disallowance being *qua* the same advances, i.e., as made for AY 2013-14. Further, additional loans assumed during this year – over which the assessee has earned a profit of Rs.68.57 lacs (refer balance-sheet as at 31.03.2014/PB pgs. 13-33), are for Building (Hero Fincorp. Ltd.) and toward working capital (L&T Finance Ltd.), secured against the relevant assets. The impugned loans/advances having been, in fact, found by us to have been financed by interest-free funds, i.e., during f.y. 2012-13, there is no basis to presume the same being not so, or financed in whole or in part by borrowed capital during the following year (i.e., f.y. 2013-14, relevant to AY 2014-15).

The decision in *Hero Cycles (P.) Ltd. v. CIT* [2015] 379 ITR 347 (SC), applied by the Id. CIT(A) in confirming the disallowance/s, is thus not applicable on facts.

We decide accordingly.

6. In the result, the assessee's appeals are allowed.

*Order pronounced in the open court on April 08, 2019*

Sd/-  
(N. K. Choudhry)  
Judicial Member

Sd/-  
(Sanjay Arora)  
Accountant Member

Date: 08.04.2019

*/GP/Sr/ Ps.*

Copy of the order forwarded to:

- (1) The Appellant: Surya Automobiles Pvt. Ltd., Hanumangarh Road,  
Abohar-152116
- (2) The Respondent: Asstt. Commissioner of Income Tax, Circle-II, Bathinda
- (3) The CIT(Appeals), Bathinda
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T.

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By Order