

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

श्री एन. के. सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायकि सदस्य
BEFORE SHRI N.K. SAINI, VICE PRESIDENT
AND SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ 1208/Chd/2018
निर्धारण वर्ष / Assessment Year : 2013-14

M/s RGS Healthcare Pvt. Ltd., Sector 69, Mohali, Punjab.	बनाम	The D.C.I.T., Circle 6(1), Ludhiana.
स्थायी लेखा सं./PAN NO: AADCR1242B		

निर्धारिती की ओर से/Assessee by: Shri Tej Mohan Singh, Adv.

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

सुनवाई की तारीख/Date of Hearing : 27.03.2019

उदघोषणा की तारीख/Date of Pronouncement: 03.04. 2019

आदेश/ORDER

Per Sanjay Garg, Judicial Member :

The present appeal has been preferred by the assessee agitating the action of the Ld. Commissioner of Income Tax (Appeals)(hereinafter referred to as ‘Ld.CIT(A)’ dated 2.8.2017, passed u/s 250(6 of the Income Tax Act, 1961 (in short ‘the Act’), relating to assessment year 2013-14.

2. The sole issue raised in this appeal is regarding the confirmation of the disallowance made by the A.O. in relation to interest paid on capital work in progress.

3. Brief facts relevant to the issue under consideration are that the A.O. observed that the assessee had showed an

amount of Rs.3,04,72,017/- under the head 'Capital Work in Progress', but the said asset was not put to use in the year under consideration. The A.O. further observed that the assessee had borrowed huge loans for business and paid interest thereon. The A.O., therefore, capitalized the notional interest @ 10.25% of capital work in progress and added the same to the returned income of the assessee.

4. In appeal before the Ld.CIT(A), the assessee submitted that it had its own sufficient funds to meet the capital work in progress. That no borrowed funds were used for capital work in progress. That no fresh loans were taken by the assessee during the year under consideration. The assessee during the year also earned sufficient profits. Relying upon the decision of the Hon'ble Supreme Court in the case of Hero Cycles Pvt. Ltd. Vs. CIT, 379 ITR 347 (SC), the Ld. counsel for assessee submitted that even otherwise, in the case of mixed funds also, the presumption will be that the assessee had used its own funds for making the investments. The Ld.CIT(A), however, held that since the assessee had used mixed funds, hence notional interest was rightly calculated by the A.O. and thus was rightly added to the income of the assessee.

5. Being aggrieved by the order of the Ld.CIT(A), the assessee has come up in appeal before us.

6. We have heard the rival contentions and have gone through the orders of the lower authorities. There is no denial or rebuttal to the plea of the assessee that the assessee has been possessed of own sufficient funds to meet the capital work in progress. Further the assessee, from the record, has demonstrated that no new loans were taken during the year. It has been further submitted that even the loans taken by the assessee were term loans for specific purposes, which could not be used for any other purpose than the that for which the loan was taken. That no loan was taken by the assessee during the year for any capital asset. The unrebutted facts on the file are that the assessee was possessed of sufficient own funds, which included a sum of Rs.12.34 crores out of share capital, reserves and surpluses and further the profits of the assessee for the year under consideration were at Rs.2 crores which were sufficient to meet the capital work in progress of Rs.3.04 crores. The proposition of law laid down by the Hon'ble Supreme Court in the case of Hero Cycles Pvt. Ltd. (supra) will squarely applicable to the facts of the case in hand. Moreover, the issue is now covered by the latest decision of the Hon'ble Supreme Court in the case of CIT (LTU) Vs. Reliance Industries Ltd. (2019) 410 ITR 466 (SC). This issue is accordingly decided in favour of the assessee. The disallowance made by the lower authorities is accordingly, deleted.

7. In the result, the appeal of the assessee is hereby allowed.

Order pronounced in the Open Court.

Sd/-
एन. के. सैनी
(N.K. SAINI)
उपाध्यक्ष/ Vice President

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

दिनांक /Dated: 3rd April, 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