

IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR

BEFORE SH. N.K.CHOUDHRY, JUDICIAL MEMBER AND  
SH. O.P.MEENA, ACCOUNTANT MEMBER

**ITA Nos. 366 to 372/Asr/2017**  
Assessment Years: 2002-03 to 2008-09

M/s. Chet Ram Naresh Kumar,  
SCO-92, New Grain Market,  
Sri Muktsar Sahib

Vs.

Dy. CIT,  
Central Circle-III,  
Ludhiana.

[PAN:AABFC 6297Q]

**(Appellant)**

**(Respondent)**

Appellant by : None  
Respondent by : Sh. Charan Dass (Ld. DR)

Date of hearing : 19.12.2019  
Date of pronouncement : 19.12.2019

**ORDER**

**PER N.K.CHOUDHRY, JM:**

These appeals have been preferred by the assessee against the separate orders dated 23.02.2017 & 02.02.2017 passed by the Ld. CIT(A), Bathinda u/s 250(6) of the Income Tax Act, 1961 (hereinafter called as the 'Act') for Asst. Years: 2002-03 to 2008-09 respectively.

**2.** As the issue and facts in all the appeals under consideration are almost similar and identical, therefore, for the sake of brevity all the appeals have been taken simultaneously for adjudication by this composite order and for brevity the facts of ITA No.366/Asr/2017 shall be taken into consideration.

**3.** These appeals have been filed on dated 19.07.2017 by the assessee, thereafter on 11<sup>th</sup> occasions, came up for hearing, however, no one appears on behalf of the assessee nor any adjournment application has been filed on either occasions, therefore, we are constrained to decide these appeals in the absence of the assessee.

**4.** The brief facts of the case are that a search and seizure operation was carried out on dated 24.10.2007 by the Investigation Wing of the Revenue Department and during which, certain incriminating documents were found and seized. Consequently, notice u/s 153A of the Act was issued. In reply to which, the assessee has filed its return of income for Asst. Year 2002-03 on dated 14.10.2008 declaring the same income as per original return. Thereafter, various statutory notices have been issued. The Assessing Officer made the addition of Rs.2,04,330/- on the basis of seized material from the residence of Sh. Sat Pal Bansal which contained details about the transactions of assessee firm with one Sh. Shiv Raj Singh and on the basis of statement of Sh. Vinay Bansal.

The Assessing Officer also made an addition of Rs.48,495/- on account of disallowance of interest qua unsecured loans provided to Sh. Sat Pal Bansal, Sh. Vinay Bansal (HUF) and Smt. Prem Lata.

**5.** The assessee challenged the additions before the Ld. CIT(A) which vide impugned order confirmed both the additions, against which the assessee is in appeal before us.

**6.** We have perused the material available on record and the orders passed by the authorities below.

**Ground No-1**, relates to the affirmation of the addition of Rs.2,04,330/- on account of alleged advances made to one Sh. Shivraj Singh. This addition was made by the Assessing Officer on the basis of seized material as per Annexure-A-1 during the search proceedings from the residence of Sh. Sat Pal Bansal which contained the details about the transactions of assessee with Sh. Shivraj Singh. The Assessing Officer had also recorded the statement of Sh. Vinay Bansal, to whom certain questions have been asked. Question No.11 is relevant because the AO made reliance upon the same for making the addition under consideration.

Q no.11 *Please go through page No.113 to 118 of Annexure-A1 which is account of Sh. Shiv Raj Singh. Please state whether it is as per regular books of account or not?*

This question was answered by Sh. Vinay Bansal by saying *that it is partially as per accounts and partially unaccounted. I will submit the reconciliation.* However thereafter no reconciliation was filed by Sh. Vinay Bansal. Consequently, the Assessing Officer added the amount of Rs.204,330/- in the income of the assessee. In our considered view this issue requires to be examined by the Assessing Officer for just and proper decision of the case while taking into consideration the reconciliation statement of the Sh. Vinay Kumar. We clarify that the assessee shall be at liberty to demonstrate its case before the Assessing Officer to come out from the addition under hand and there will

not be any impediment on the right and contention of the assessee. Hence, in the interest of justice, we are inclined to set remit the issue consideration to the file of the Assessing Officer for decision afresh.

**6.1 Ground No.2-** That Assesse has raised this ground to the effects that the CIT(A) further was not justified to arbitrary hold the disallowance of a sum of Rs.94,898/- out of interest account by resorting to the provisions of section 36(1)(iii)."

This ground pertains to disallowance of interest amounting to Rs.94,896/- under the provisions of section 36(1)(iii) on the ground that the assessee had failed to show availability of interest free funds. As per the Assessing Officer, all the partners of the appellant/assessee firm had debit balance in their capital account on which no interest was charged from them besides the assessee firm had advanced interest free loans to sister concern namely Sh. Sat Pal Singh (HUF) and M/s Sadhu Ram Satpal, though interest was paid by the assessee qua secured and unsecured loans against the said addition.

On appeal against this addition, in the appeal proceedings it was claimed by the assessee before the Ld. CIT(A) that no borrowed funds were utilized to advance the money to the said parties. Further, it was submitted before the Ld. CIT(A) that amount of interest free funds available with the appellant were Rs.37,71,453/-, therefore, the interest free advances of Rs.7,78,321/- stands covered. The assessee has also filed a list to demonstrate the details of capital/creditors to whom no

interest was paid. The Ld. CIT(A) duly considered the submissions and details of the assessee and also perused the details provided for having interest bearing fund from which it was transpired that capital amount of the partners was only up to the extent of Rs.3,66,650/- whereas the amount of Rs.34,04,813/- was of the sundry creditors of the trade, therefore, it was held by the Ld.CIT(A) that it cannot be said that the availability of non-interest bearing funds were enough to cover the non-interest bearing advances. The Ld. CIT(A) further held that besides no commercial expediency could be demonstrated by the Appellant firm in making interest free advances to the sister concern. Consequently, the Ld. CIT(A) did not interfere with the disallowance.

We realize from the order passed by the authorities below that the assessee has failed to demonstrate the availability of the interest free funds which could have given as interest free advances to its sister concern or otherwise to other persons and even otherwise the assessee also failed to show any commercial expediency and it is a fact that partners capital was only to the tune of Rs.3,66,640/- whereas the balance amount of Rs.34,04,813/- pertains to the sundry creditors of trade, hence, in our considered view this addition does not require any interference, because conclusion of the Ld. CIT(A) is logical and well-reasoned and does not suffer from any illegality and/or impropriety. Resultantly, the appeal under consideration is liable to be partly allowed for statistical purpose.

**7.** In the result, appeals i.e. ITA Nos.**366 to 367/Asr/2017** stands partly allowed for statistical purposes and ITA Nos. **368 to 372/Asr/2017** stands dismissed as the same contained only one disallowance of interest made under the provisions of section 36(1)(iii) of the Act, which has been confirmed by us in the lead case i.e. ITA no. 366/ASR/2017 .

Order pronounced in the open Court on 19/12/2019

Sd/-  
(O.P.MEENA)  
ACCOUNTANT MEMBER

Sd/-  
(N.K.CHOUDHRY)  
JUDICIAL MEMBER

Dated: 19/12/2019.

/PK/ Ps.

Copy forwarded to:

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2. The Respondent
3. The CIT
4. Then CIT(Appeals)
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By Order