

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी”, चण्डीगढ़

IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCH ‘B’, CHANDIGARH

श्रीमती दिवा सिंह, न्यायिक सदस्य एवं, एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य

BEFORE: SMT.DIVA SINGH, JUDICIAL MEMBER
AND SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.1159/Chd/2019

निर्धारण वर्ष / Assessment Year : 2014-15

Monte Carlo Fashions Ltd., 106, G.T. Road, Sherpur, Ludhiana.	बनाम	The A.C.I.T., Circle-7, Ludhiana.
स्थायी लेखा सं./PAN NO: AAFCM7888Q		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: Shri Navdeep Sharma, Adv.

राजस्व की ओर से/ Revenue by : Shri Ashok Khanna, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 24.02.2021

उद्घोषणा की तारीख/Date of Pronouncement: 05.03.2021

(Virtual Court)

आदेश/Order

Per Annapurna Gupta, Accountant Member:

The above appeal has been preferred by the assessee against the order of the Commissioner of Income Tax (Appeals)-3, Ludhiana dated 28.06.2019 relating to assessment year 2014-15 passed u/s 250(6) of the Income Tax Act, 1961 (hereinafter referred to as ‘Act’).

2. The solitary issue in the present appeal relates to disallowance of interest expenses for the reason that they were not found to have been incurred for the purpose of business as per the provision of section 36(1)(iii) of the Act. The ground raised by the assessee in this regard reads as under:

“1. That the Worthy CIT(A)-3, Ludhiana erred in law and on facts in upholding the addition/disallowance of Rs.5,67,649/- being disallowance of interest of CC account for purchase of fixed assets.”

3. Briefly stated, the AO during assessment proceedings noted that the assessee had made addition to the assets to the extent of Rs.78.18 crores and had also shown capital work in progress to the extent of Rs.20.21 crores, all payments having been made out of the cash credit account of the company on which interest was being charged. Accordingly, he confronted the assessee as to why the interest pertaining to the funds utilized for acquiring the said assets be not disallowed and capitalized as per the proviso to section 36(1)(iii) of the Act. Due reply was filed by the assessee contending that since it had sufficient own funds in the form of internal accruals as well as the reserves and surplus, the payments for the assets was made out of the same and, therefore, no disallowance u/s 36(1)(iii) of the Act of interest was warranted. The AO did not agree with the contention of the assessee. Noting that the Ld.CIT(A) in the case of the assessee had applied the debt equity ratio in similar facts and circumstances in its order

dated 18.12.2014 in Appeal Nos.135, 151 & 152/IT/CIT(A)-2/Ldh/2014,the AO also applied the said ratio and worked out the disallowance at Rs.5,67,649/-. The same was upheld by the Ld.CIT(A).

4. Before us at the outset itself, the Ld.Counsel for the assessee pointed out that identical issue had come up before the ITAT in case of the assessee itself for assessment year 2012-13 wherein taking note of the assessee's arguments that it had sufficient own funds available for making the investment and further taking note of the decision of the Hon'ble jurisdictional High Court in the case of Hero Cycle Pvt. Ltd. Vs. CIT, Ludhiana, CA No.514 of 2008 dated 5.11.2015 and Bright Enterprises Pvt. Ltd. Vs. CIT, Jalandhar (2016), 381 ITR 107 (P&H) wherein it was held that no disallowance is called for where the assessee had own sufficient funds, the ITAT had restored the issue to the AO to go through the fund position and determine thereafter whether any borrowed funds had been utilized and thereafter take a decision on the issue. Copy of the said order dated 12-10 -17 in ITA No. 1341/Chd/2016, was placed before us. Our attention was drawn to the relevant findings of the ITAT at paras 10 and 11 of the order as under:

“10. We have heard Ld. Representatives of both the parties and perused the material available on record.

11. It is also to be noted that the Finance Act 2003 has amended Section 36(1)(iii) by inserting a proviso to the existing provision w.e.f. 01.04.2004 relevant to assessment year 2004-05. The proviso inserted in the existing provision of section 36(1 j [fill] is reproduced as under:

“Provided that any amount of the interest paid. In respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalized in the books of account or not): for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction..”

The judgment of various Courts in the case of Hero Cycles Pvt. Ltd. Vs. CIT. Ludhiana C.A. No. 514 of 2008 dt. 05/11/2015, Bright Enterprises Pvt. Ltd. Vs. CIT, Jalandhar (2016) 381 ITR 107 (P&H) held that no disallowance of interest is called for where the assessee has got sufficient own funds. The Assessing Officer is directed to go through the fund position namely capital and interest free advances, reserves and surplus to determine whether any borrowed funds have been utilized more than available own funds and take a decision keeping in view the decisions rendered above. If sufficient own funds are available, no disallowance is called for. This ground may be treated as set aside to the file of the Assessing Officer.”

5. The Ld.Counsel for the assessee, therefore, pleaded that since the facts of the present case are parameteria to that in assessment year 2012-13, the issue stands covered by the decision of the ITAT and needed to be relooked into by the AO in compliance with the directions given by the ITAT in assessment year 2012-13.

6. The Ld. DR did not object to the same.

7. In view of the above since admittedly identical issue, in the backdrop of identical facts, already stands adjudicated by the ITAT in the case of the assessee itself in A.Y 2012-13 ,the issue stands covered by the said order as per which the matter needs to be reconsidered by the AO in accordance with the directions of the ITAT in the said order. The issue is therefore restored back to the AO to be decided in accordance with the directions of the ITAT in assessment year 2012-13. The ground of appeal raised by the assessee is, therefore, allowed for statistical purposes.

8. In the result, the above appeal of the assessee is allowed for statistical purposes.

Order pronounced on 05.03.2021.

Sd/-

(DIVA SINGH)

न्यायिक सदस्य/ Judicial Member

Sd/-

(ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

Dated: 5th March, 2021

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