

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "A" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "A" CHANDIGARH

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

आयकरअपीलसं./ITA No. 1356/CHD/2019

निर्धारणवर्ष / Assessment Year : 2016-17

Shri Anil Kumar Goyal, C/o VS Krishna Goyal Hosiery Works, 171 Industrial Area-A, Ludhiana.	बनाम	The ACIT, Circle-2, Ludhiana.
स्थायीलेखासं./PAN NO: ABMPG0832H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकरअपीलसं./ITA No. 1354/CHD/2019

निर्धारणवर्ष / Assessment Year : 2016-17

Shri Kamal Parkash Goyal, C/o VS Krishna Goyal Hosiery Works, 171 Industrial Area-A, Ludhiana.	बनाम	The ACIT, Circle-2, Ludhiana.
स्थायीलेखासं./PAN NO: ABFPG4996F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकरअपीलसं./ITA No. 1355/CHD/2019

निर्धारणवर्ष / Assessment Year : 2016-17

Shri Ajay Kumar, C/o VS Krishna Goyal Hosiery Works, 171 Industrial Area-A, Ludhiana.	बनाम	The ACIT, Circle-2, Ludhiana.
स्थायीलेखासं./PAN NO: ABFPG0751L		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Hearing through video Conferencing

निर्धारितीकीओरसे/Assessee by : Shri S.K. Mukhi, Advocate
राजस्वकीओरसे/ Revenue by : Smt. Shweta Yadav, ACIT

सुनवाईकीतारीख/Date of Hearing : 11.03.2021
उदघोषणाकीतारीख/Date of Pronouncement : 11.03.2021

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeals have been preferred by different but related assesseees against the orders dated 19.09.2019 of the Commissioner of Income Tax (Appeals)-5, Ludhiana [hereinafter referred to as 'CIT(A)']. Since the issue involved in all these appeals are identical, therefore, these appeals have been heard together and are being disposed of by this common order. The common issue involved in these appeals is related to the disallowances of deduction claimed by the assesseees on account of interest expenditure claimed against interest income.

2. For the sake of convinces have been taken from ITA No. 1356/Chnd/2019 in case of Shri Anil Kumar Goyal. The assessee received total interest income aggregating to Rs. 51,23,856/- for the year under consideration on unsecured loans advanced by him and interest on saving/fixed deposit account. Simultaneously, the assessee paid interest of Rs. 34,52,984/- during the F.Y. 2015-16 on the unsecured loans taken by him from different parties. In addition, the assessee has also paid interest for Rs. 13,40,951/- on loan against property from Axis Bank Ltd. Thus, total interest paid by the assessee

during the F.Y. 2015-16 was Rs. 47,93,935/- (Rs.34,52,984/- plus Rs. 13,40,951/-). However, the Ld. AO made complete disallowance of the interest paid of Rs. 47,93,935/- which was claimed by the assessee as deduction U/s 57(iii) of the Act against interest income of Rs. 51,23,856/-. The Assessing Officer disallowed the interest expenses of Rs. 47,93,935/- for the reason that the assessee failed to prove direct nexus between the interest expenditure and interest income.

3. In first appeal, the Id. CIT(A) confirmed the disallowances so made by the Assessing Officer. The assessee has thus come in appeal before us.

4. We have heard rival contentions and perused material available on record. The Ld. Counsel for the assessee has submitted that the assessee is in the activity of taking and giving loan on interest. The assessee during the year had loan from certain parties and advanced unsecured loans to other parties and yielded net positive interest income. That this activity of the assessee has been continued since many years. The lower authorities, accepting the said activity of the assessee have never made any addition on this issue in the earlier assessment years as well as in the subsequent year except the assessment year under consideration. The Ld. Counsel has further submitted that though, some part of the loans amounting to Rs. 13,40,951/- was taken from Bank against security of property given to the Bank, which was received at a lower rate of interest, whereas, the assessee had advanced loan on higher rate

of interest and earned interest income. The Id. Counsel has further submitted that the lower authorities have not disputed the genuineness of the activity of advancement of loan and taking of loan by the assessee from different parties. The only issues on which the deduction has been disallowed is that the assessee has not established one to one nexus between the loan taken and loan advanced. The Ld. Counsel has further submitted that though the assessee has sufficient own funds also but that does not mean that the presumption will be that the interest yielded loans were advanced by the assessee from own funds. That there is no allegation of the Department that the interest bearing funds have been used by the assessee for some other purposes.

5. The Ld. D/R has relied upon the findings of the lower authorities.

6. We have considered the rival contents. The assessee has demonstrated from the record that the activity of the assessee of taking interest bearing loan and making advances to other parties is continued for the last so many years. The assessee in this activity has earned net positive interest income. In our view in such a case, there is no need to establish one to one nexus between each of the transaction of loan taken and loan advanced by the assessee. There transactions of taking unsecured loans otherwise has not been disputed by the Department. Even the Assessing Officer has not made any effort to verify the genuineness of the transaction by summoning the concerned parties either who have advanced loan to assessee or the parties have taken loan

from the assessee. There is no allegation that the assessee has used the interest bearing funds for some other purposes. Under the circumstances, in our view, the assessee is entitled to set off the interest expenditure against the interest income earned by the assessee and the net of the same has rightly been offered by the assessee for taxation. In view of above discussion, the addition made by the Assessing Officer is ordered to be deleted. The Id. Representative parties have submitted that the facts and issues involved in all the captioned appeals the identical. In view of our findings given above, the addition made by the lower authorities in all these three appeals is ordered to be deleted.

In the result, all these three appeals are hereby allowed.

Order pronounced on 11/03/2021

Sd/-

Sd/-

(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)
लेखा सदस्य/ Accountant Member

(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य/ Judicial Member

Dated : 11/03/2021

"Santosh"

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

देशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar