

आयकर अपीलिय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, "B", CHANDIGARH**

**BEFORE SHRI N.K. SAINI, VICE PRESIDENT &  
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

आयकर अपील सं./ITA Nos. 1161 & 1162/CHD/2019

निर्धारण वर्ष / Assessment Year : 2012-13 & 2013-14

Oswal Woolen Mills Ltd., G.T.Road, Sherpur, Ludhiana	बनाम	The ACIT, Circle-7 Ludhiana
स्थायी लेखा सं./PAN NO: AAAC01973F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Sh. Navdeep Sharma, Advocate  
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 01.06.2022

उदघोषणा की तारीख/Date of Pronouncement : 22.08.2022

**आदेश/Order**

**Per Sudhanshu Srivastava, Judicial Member:**

The Revenue and the assessee have filed the captioned cross appeals against two orders both dated 01.06.2019 passed by the Ld. Commissioner of Income Tax (Appeals) Ludhiana, (In short the 'Ld. CIT(A)') whereby the impugned orders, the Ld. CIT(A) has partly allowed

the appeals preferred by the assessee against the assessment orders passed u/s 143(3) of the Income Tax Act, 1961 [in short 'the Act'].

2.0 It is seen that some grounds in these two appeals were earlier decided by the Coordinate Bench of the ITAT vide order dated 05.05.2021 but, subsequently, the assessee had filed Miscellaneous Applications seeking rectification of some mistakes apparent from the records in the said two appeals. The Miscellaneous Applications(MA) of the assessee were allowed by the Coordinate Bench of the Tribunal in order dated 27.10.2021 in M.A. Nos. 19 & 20/Chd/2021 wherein it was noted that the Coordinate Bench had not decided ground Nos. 2 and 3 in the appeal for assessment years 2012-13 and ground No. 2 in appeal for A.Y. 2013-14. Accordingly, in view of the Miscellaneous Applications having been allowed, the remaining grounds as not adjudicated upon and as mentioned in the M.A. order are now put up before us for the purpose of adjudication.

3.0 For the sake of completeness these grounds of appeals are reproduced herein under:-

ITA No.1161/Chd/2019

2. That the worthy CIT(A)-3, Ludhiana erred in law and on facts in upholding the addition / disallowance of Rs. 1,44,21,842/- being disallowance of interest paid on working capital loan and term loan for purchase of investments in spite of the fact that fresh investment made during the year under consideration were made out of the funds available from the liquidated investments and the internal accrual.

*Directions be given to delete the said disallowance as the appellant has sufficient own funds in the shape of capital and reserves.*

3. That the worthy CIT(A)-3, Ludhiana erred in law and on facts in upholding the addition / disallowance of Rs. 41,96,383/- being disallowance of interest of CC account, for purchase of fixed assets.

*Directions be given to delete the said disallowance as the appellant has sufficient own funds in the shape of capital and reserves.*

ITA No.1162/Chd/2019

2. That the worthy CIT(A)-3, Ludhiana erred in law and on facts in upholding the addition / disallowance of Rs. 35,16,374/- being disallowance of interest of CC account, for purchase of fixed assets.

*Directions be given to delete the said disallowance as the appellant has sufficient own funds in the shape of capital and reserves.*

4.0 The Ld. AR submitted that ground No.3 in appeal for assessment year 2012-13 and ground No. 2 for assessment year 2013-14 were identical.

4.1 Regarding ground No.2 in assessment year 2012-13, it was submitted that this ground challenged computation of disallowance of Rs. 1,44,21,842 u/s 36(1)(iii) of the Act out of interest paid on Working Capital Loan and Term Loan for purchase of investment in spite of assessee having sufficient funds of its own being available and no fresh investments having been made during the year. It was submitted that the records would show that in fact the investments during the years were reduced and, therefore, the impugned disallowance was bad in law and was covered in favour of the assessee by the following judicial precedents :-

- a. Bright Enterprises (P) Ltd Vs. CIT 381 ITR 107(PB)
- b. DCIT Vs. Rice Auto Industries.ita No. 800/Chandi/2018 A.Y. 2013-14
- c. CIT Vs. Kapsons Associates (2016) 381 ITR 204 (Pb)
- d. CIT Vs. Max India (2016) 388 ITR 81 (Pb)
- e. CIT Vs. Max India LTD. 398 ITR 209 (Pb)
- f. CIT Vs. Reliance Ind. Ltd 410 ITR 466 (SC)

4.2 With respect to ground No.3 in assessment year 2012-13, it was submitted that this ground challenges the disallowance of interest of Rs. 41,96,383/- pertaining to Cash Credit account for purchase of fixed assets. Similarly, in A.Y. 2013-12, ground No. 2 challenges

disallowance of interest of Rs. 35,16,374/- pertaining to cash credit account for purchase of fixed assets. It was submitted that this action was not sustainable in law in view of the fact that the assessee had its own sufficient funds in the shape of capital, reserves and surplus as well internal accruals. The Ld. AR further submitted that in assessment year 2012-13, the assessee had already capitalized interest to the tune of Rs. 2.81 crores under the head 'fixed assets' and in assessment year 2013-14, Rs. 2.94 crores of interest had been capitalized. The Ld. AR further submitted that this issue was covered in favour of the assessee by the order of ITAT Chandigarh Bench in the case of Monte Carlo Fashions Ltd. Vs. ACIT in ITA No.1341/Chd/2016 vide order dated 12.10.2017 for assessment year 2012-13.

5.0 Per contra, the Ld. CIT DR supported the orders of the lower authorities.

6.0 We have heard the rival contentions and have also perused the material on record. It is seen that both the issues have been subject matter of dispute in earlier years also. The Ld. AR has referred to the order of the ITAT in the appeal of a group company i.e. Monte Carlo Fashions Ltd for A.Y. 2012-13 (supra) and it is seen that these

issues figured in the said appeal as well. The relevant extract from the said order is being reproduced herein under;

*“2. The assessee has raised the following grounds:*

*1. That the Worthy CIT(A)-4, Ludhiana, erred in law and on facts in restricting the disallowance at Rs. 5,20,493/- (on the basis of debt equity shares), out of interest paid on working capital limit, by assuming that the amount paid for capital advances was given out of borrowed money from C.C. A/c, whereas the appellant had sufficient funds in the form of capital & reserve.*

*Directions be given to completely delete the balance sustained addition of Rs. 5,20,493/- made out of interest paid to bank on C.C. A/c, on account of purchase of Assets. “*

*xxxxxx ..*

*“8. The Ld. AR argued that the assessee has got mixed funds at their disposal for utilization. And hence it cannot be said that the CC funds have been utilized for capital advances.*

*9. The Ld. DR vehemently supported the order of the lower authorities and relied on the decision of Hon’ble Punjab & Haryana High Court in case of M/s Abhishek Industries Ltd. Vs. CIT (286 ITR 1).*

*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 to the existing provision of section 36(1)(iii) 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 (P) 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 Assessing Officer.”*

6.1 We further note that, subsequently, in assessee's own case for assessment year 2011-12 in ITA No. 153/Chd/2015 and ITA No. 200/Chd/2015, the Coordinate Bench had referred to the above

mentioned order in the case of Monte Carlo Fashions Ltd (supra) and had set aside the issues to the file of the AO vide order dated 22.07.2022.

6.2 Therefore, respectfully following the above said orders, the issues are set aside to the file of the AO to be decided as per the directions given vide the aforesaid referred to order dated 12.10.2017. Accordingly, both the issues stand decided in favour of the assessee for statistical purposes.

7.0 In the final result, both the appeals stand allowed for statistical purposes.

Order pronounced on 22.08.2022.

Sd/-

Sd/-

**( N.K. SAINI)**

**Vice President**

**Dated : 22.08.2022**

“आर.के.”

**(SUDHANSHU SRIVASTAVA)**

**Judicial Member**

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

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar