

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT, AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No. 1658/DEL/2023 [A.Y. 2018-19]

M/s Modland Wears Pvt Ltd
55, Hanuman Road,
Connaught Place, New Delhi

Vs. The Dy C.I.T.
Circle - 16(1)
New Delhi

PAN - AAACM 0216 F

(Applicant)

(Respondent)

Assessee By : Shri Gaurav Jain, Adv
Ms. Bharti Sharma, Adv

Department By : Shri Subhra Jyoti Chakraborty, CIT-DR

Date of Hearing : 01.02.2024

Date of Pronouncement : 07.02.2024

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order dated
31.03.2023 by NFAC, Delhi pertaining to A.Y. 2018-19.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in confirming the disallowance of Rs. 5,14,66,924/- u/s 36(1)(iii) of the Income-tax Act, 1961 [the Act, for short] out of the total interest expenditure.

3. Briefly stated, the facts of the case are that the assessee filed its return of income on 30.03.2019 declaring loss of Rs. 4,66,19,009/- Return was selected for scrutiny assessment and accordingly, statutory notices were issued and served upon the assessee.

4. Returned loss was assessed at an income of Rs. 4,61,94,33,924/- after making disallowance of Rs. 51,14,66,924/- on the ground that the assessee has borrowed funds @ 14% per annum but lent the same to one Blue Line Finance Pvt Ltd, New Delhi @ 10%. Therefore, the differential amount of interest has no nexus with the interest bearing borrowed funds.

5. Action of the Assessing Officer was upheld by the Id. CIT(A).

6. Before us, the Id. counsel for the assessee vehemently stated that there is no nexus between lending to Blue Line Finance Pvt Ltd and borrowing from Fortis Hospital Ltd., New Delhi as money was given

in earlier year and there is an opening balance of Rs. 54,68,30,000/- in the account of Blue Line Finance Ltd.

7. The ld. counsel for the assessee pointed out that during the year itself, Blue Line Finance Ltd repaid the loan of Rs. 45 crores and fresh loan was only to the extent of Rs. 2.74 crores. Therefore, there is no nexus between borrowing of funds from Fortis Hospital Ltd and lending of funds to Blue Line Finance. The ld. counsel for the assessee also explained the transaction reflecting in the bank statements to buttress his submissions.

8. Per contra, the ld. DR strongly supported the findings of the Assessing Officer.

9. We have given thoughtful consideration to the orders of the authorities below and have carefully considered the relevant documentary evidence brought on record. We find from the ledger account of Blue Line Finance that there is an opening balance of Rs. 54.68 crores. Fresh loan has been given only to the extent of Rs. 2.74 crores. Blue Line Finance has repaid Rs. 45 crores during the year itself.

10. Further, on perusal of bank statements, we find that fresh loan of Rs. 1.40 crores and Rs. 72 lakhs was given on 23.06.2017 and 27.06.2017 when there are no borrowings whatsoever from Fortis Hospital Ltd. Third tranche of loan of Rs. 62 lakhs was given on 11.07.2017. Again, there is no borrowing from Fortis Hospital Ltd before the date.

11. Considering the facts in totality, we are of the considered view that there is no nexus between borrowings from Fortis Hospital and lending to Blue Line Finance Ltd. Therefore, the disallowance is uncalled for. The Assessing Officer is directed to delete the same.

12. In the result, the appeal of the assessee in ITA No. 1658/DEL/2023 is allowed.

The order is pronounced in the open court on 07.02.2024.

Sd/-

**[SAKTIJIT DEY]
VICE PRESIDENT**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 07th FEBRUARY, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	