

IN THE INCOME TAX APPELLATE TRIBUNAL  
NAGPUR “SMC” BENCH :NAGPUR [VIRTUAL HEARING]  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.106/NAG./2020  
Assessment Year 2013-2014

M/s. Bigwig Motors Pvt. Ltd., C/o. Surendra Khurana, 250, Temple Road, NAGPUR – 440 010 Maharashtra PAN AACCB6952B	vs.	The Income Tax Officer, Ward-1(1), Nagpur – 440 001. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Manoj G Moryani, Advocate
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	18.03.2024
Date of Pronouncement :	09.05.2024

**ORDER**

This assessee’s appeal for assessment year 2013-14, arises against the CIT(A)-1, Nagpur, Nagpur's Order No.CIT(A)-1/ 245/2015-16, dated 24.08.2020, in proceedings u/s.143(3) of the Income Tax Act, 1961 (in short “the Act”).

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *“The order passed U/s. 143(3) of the Income Tax Act, 1961 is illegal, invalid and bad in law.*
2. *On the facts and circumstances the learned Commissioner of Income Tax (Appeals)-1, Nagpur erred in disallowances of interest expenses U/s.36(1)(iii) of Rs.27,92,725/-*

*disallowed by assessing officer Rs.50,84,070/-, therefore order passed is unjustified, unwarranted and excessive.*

- 3. On the facts and circumstances the learned Commissioner of Income Tax (Appeals)-1, Nagpur erred in not considering the total interest free loans and trade advances of Rs.1,11,73,053/- and without considering the same disallowance of interest expenses restricted at Rs.27,92,725/- is unjustified, unwarranted and excessive.*
- 4. On the facts and circumstances the learned Commissioner of Income Tax (Appeals)-1, Nagpur ought have accepted interest free loans and advances available with the assessee at Rs.1,11,73,053/- and without considering the same the disallowance of interest expenses U/s.36(1) (iii) and restriction to Rs.27,92,725/- are unjustified, unwarranted and excessive.*
- 5. On the facts and circumstances the learned Commissioner of Income Tax (Appeals)-1, Nagpur ought to have considered loan and advances given to the directors and their associates and sister concerns for business purpose at Rs.2,16,60,415/- were out of interest free funds, therefore disallowances of interest expenses is unjustified, unwarranted and excessive.*
- 6. The appellant denies liability on interest U/s. 234A, 234B and 234C of the Income Tax Act, 1961, without prejudice*

*the levy of interest is unjustified, unwarranted and excessive.*

*7. The appellant seeks permission to add any other ground of appeal or amend or alter the aforesaid ground of appeal at the time of hearing of the appeal.”*

3. It is thus clear that the assessee's sole substantive grievance herein seeks to reverse both the lower authorities action making sec.36(1)(iii) interest disallowance of Rs.39,60,622/- as restricted to Rs.27,92,725/- in the CIT(A)'s order. Learned counsel's sole substantive argument is that the assessee was having much more non-interest bearing funds than the loans and advances in question which allegedly had been used for non-business purposes. This being the assessee's case, I am of the considered opinion that the instant issue deserves to be re-decided by the learned Assessing Officer in light of the assessee's fund position of his interest free vis-à-vis non-interest bearing ones, preferably within three effective opportunities of hearing. Learned DR's vehement arguments supporting the same in principle are accepted to this limited extent and the foregoing sole issue is restored back to the file of Assessing Officer with a rider that it shall be the assessee's risk and responsibility only to plead and prove all the relevant facts in consequential proceedings. Ordered accordingly.

4. No other ground has been pressed.
5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 09.05.2024.

Sd/  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 09<sup>th</sup> May, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A)-1, 216, Aayakar Bhavan, Telangkhedi Road, Civil Lines, Nagpur – 440 001.
4.	The Pr. CIT, Nagpur concerned
5.	D.R. ITAT, "SMC" Bench, Nagpur.
6.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.