

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

**BEFORE SHRI J. SUDHAKAR REDDY, A.M. and  
SH. SUDHANSHU SRIVASTAVA, J.M.**

**ITA No. 1335/Del/2012  
A.Y. 2008-09**

ITO, Ward 6(1)  
New Delhi

vs. Sh. Muni Ram Verma  
Balaji Chain Co.  
1245, Kucha Mahajani  
Chandni Chowk  
New Delhi 110 006

PAN: ACBPV 8621 R

**(Appellant)**

**(Respondent)**

Appellant by : Sh.P. Damkanunjna, Sr.D.R

Respondent by : Sh. Ved Jain, C.A.

**ORDER**

**PER J. SUDHAKAR REDDY, ACCOUNTANT MEMBER**

This is an appeal filed by the Revenue directed against the order of Ld.CIT(A)-IX, New Delhi dated 18.01.2012 pertaining to the Assessment Year (A.Y.) 2008-09.

2. Facts in brief:- The assessee is an individual and has filed his return of income on 30.9.2008 declaring income of Rs.19,67,840/-. The A.O. completed assessment u/s 143(3) of the Income Tax Act, 1961 (the Act), computing the total income at Rs.2,77,79,266/-, inter alia making additions u/s 68 of the Act of Rs.1,95,02,979/- and disallowed the interest claimed thereon of Rs.7,53,550/-. Proportionate interest expenditure was also disallowed on the ground that it has to be capitalized. Aggrieved the assessee carried the matter in appeal. The First Appellate Authority admitted additional evidence under Rule 46 A of the Income Tax Rules. He

called for a remand report and after considering the reply, granted relief to the assessee. Aggrieved the Revenue is in appeal before us on the following grounds.

- “1. The order of the Ld.CIT(A) is erroneous and contrary to facts and law.*
- 2. On the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition of Rs.1,95,02,979/- made by the A.O. on account of unsecured loans taken from various persons including Private Limited Companies.*
- 3. On the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition of Rs.7,53,500/- on account of interest on such unsecured loans.*
- 4. On the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition of Rs.55,54,897/- to Rs.3,69,802/- on account of interest on loan deployed for the purpose other than business.*
- 5. The appellant craves leave to add, alter, amend any grounds of appeal raised above at the time of hearing.”*

3. We have heard Shri Ved Jain, the Ld.Counsel for the assessee and Sh.P.Damkanunjna, the Ld.Sr.D.R. on behalf of the Revenue.

5. On a careful consideration of the facts and circumstances of the case, orders of lower authorities, material filed on record and case laws cited, we hold as follows.

6. Ground no.1 is general in nature. In ground no.2 we find that Shri Brij Bihari Bansal and Smt.Santosh Verma who have a credit of Rs.40 lakhs, have appeared before the A.O. Statements were recorded on oath u/s 131 of the Act. Both have confirmed that they have given advances to the assessee. Copies of Bank statements were filed in support of their statements. The bank statements of M/s Gold Line Enterprises Pvt. Ltd. from where these persons have received money (i.e. source of source) were directly obtained by the A.O. Under the circumstances we do not find any

infirmary in the order of the Ld.CIT(A), wherein these credits were accepted as genuine and addition u/s 68 of the Act deleted.

6.1. The Revenue has not challenged the action of the Ld.CIT(A) admitting additional evidence. In view of the above factual findings, we dismiss ground no.2 of the Revenue.

7. Ground no.3 is consequential to our decision in ground no.2. Hence the same is dismissed.

8. Ground no.4 is on disallowance of interest. The Ld.CIT(A) at para 10.3 of his order dealt with the issue as follows.

*“10.3 I have considered the findings of the AO as per the Assessment order, the written submissions and the arguments made in this respect and the facts on record. I find that partly the stand taken by the Id. AO is correct and at the same time the contention of the appellant is partly acceptable. It cannot be said that all the assets show By the appellant are part of the business and the AO was not justified in segregating the same for making proportionate disallowance of interest. It is seen that during the course of the assessment proceedings, the appellant had agreed for a disallowance of Rs.2,72,564/- on account of interest attributable to the following items:*

<i>Introduction of capital in a partnership concern</i>	<i>Rs.1,82,670/-</i>
<i>Investment in a plot of land</i>	<i>Rs. 89,894/-</i>
<i>Total</i>	<i>Rs.2,72,564/-</i>

10.4 Further, on being confronted with the applicability of the provisions of section 36(1 )(iii) of the Act on the advances given for the purpose of purchase of the machinery which was not received during the year, the appellant submitted that the advance was given towards the end of the year and therefore, the AO was not justified in computing the interest for the whole of the year. Vide submission dated 12.01.2012 filed on 17.01.2012 the Id. AR submitted calculation of the interest disallowable on the advance of Rs.1,45,25,348/- given for the purchase of machinery at Rs.97,239/-. Since,

*the machinery was not received during the year and hence not put to use, the interest on such advance cannot be allowed as revenue expenditure. The amount of Rs.97,239/- is, therefore, also disallowed as interest attributable to such advance. Thus, the total disallowable interest works out to Rs.3,69,802/- (2,72,564 + 97,238).”*

8.1. The Ld.D.R. could not controvert these findings.

8.2. Thus we uphold this finding of the Ld.CIT(A) and dismiss ground no.5.

9. Ground no.5 is general in nature.

10. In the result Revenue's appeal is dismissed.

Order pronounced in the Open Court on 31<sup>st</sup> March, 2016.

**Sd/-**  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(J. SUDHAKAR REDDY)**  
**ACCOUNTANT MEMBER**

Dated: the 31<sup>st</sup> March, 2016

- *Manga*

Copy forwarded to: -

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

- TRUE COPY -

By Order,

**ASSISTANT REGISTRAR**