

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

PHYSICAL HEARING

BEFORE HON'BLE SHRI LALIET KUMAR, JM
AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपील सं./ ITA No.1019/CHANDI/2016
(निर्धारणवर्ष / Assessment Year: 2012-13)

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| DCIT Circle -6 Ludhiana. | बनाम/ Vs. | Shri Mahesh Kumar Goyal 259, Industrial Area-A, Ludhiana. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABGPG-2297-L | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थीकीओर Appellant by | : | S/Shri Ashwani Kumar (CA) and Aditya Kumar (CA) – Ld. ARs |
| प्रत्यर्थीकीओरसे/ Respondent by | : | Dr. Ranjit Kaur (Addl. CIT) – Ld. Sr. DR |

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| सुनवाईकीतारीख/ Date of Hearing | : | 01-07-2025 |
| घोषणाकीतारीख / Date of Pronouncement | : | 15-07-2025 |

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year (AY) 2012-13 arises out of an order passed by learned Commissioner of Income Tax (Appeals)-3, Ludhiana [CIT(A)] on 28-07-2016 in the matter of an assessment framed by Ld. AO u/s 143(3) of the Act on 31-03-2015. The sole grievance of the revenue is part deletion of interest disallowance as made by Ld. AO u/s 57(iii). Having heard rival

submissions and upon perusal of case records, the appeal is disposed-off as under.

2. The assessee earned interest income of Rs.245.37 Lacs from six persons / entities as tabulated in para 3.1 of the assessment order. The interest was offered to tax as 'income from other sources'. Against the same, the assessee claimed interest expenditure of Rs.296.67 Lacs which was stated to be paid to 13 entities as tabulated in same para. The assessee was accordingly directed to justify claim of interest expenditure in terms of Sec. 57(iii). Though the assessee furnished certain explanation and stated that it suo-motu disallowed interest expenditure of Rs.27.36 Lacs, Ld. AO observed that the assessee had mixed funds as well as mix utilization of funds. The funds were used for income generating activities as well as to carry out non-productive activities. The provisions of Sec. 57(iii) allow expenditure laid out or expended wholly and exclusively for the purpose of making or earning of such income. In the absence of any direct nexus shown by the assessee between interest bearing funds and interest yielding funds, the whole interest expenditure of Rs.296.67 Lacs was disallowed and the assessment was framed accordingly.

3. During appellate proceedings, the assessee explained source of each of the investment and drew attention to assessments framed by Ld. AO for AYs 2009-10, 2010-11 and 2011-12. In AY 2011-12, Ld. AO had verified that nexus between the borrowed funds vis-à-vis funds deployed for interest earning purposes. After complete verification, Ld. AO made partial disallowance of Rs.18.47 Lacs out of interest

expenditure of Rs.190.42 Lacs. In this year, the major borrowings pertained to earlier years which stood verified in those years. Therefore, disallowance of full interest in the present year was not justified. Based on working of AY 2011-12 and considering fresh borrowings of this year, the assessee computed interest disallowance of Rs.43.45 Lacs. Out of this, the assessee had already disallowed expenditure of Rs.27.36 Lacs.

4. The findings of Ld. CIT(A) are contained in para 3.2 to 3.4 of the impugned order. The Ld. CIT(A) concurred with the submissions of the assessee and referred to assessment framed by Ld. AO u/s 143(3) in AY 2011-12 wherein Ld. AO partially disallowed interest expenditure on similar facts. In that year, Ld. AO had verified the nexus of borrowed funds vis-à-vis funds deployed for interest earning purposes and finally disallowed interest expenditure of Rs.18.47 Lacs out of total interest expenditure of Rs.190.42 Lacs. The majority of funds pertained to earlier years. In this year, fresh loan of Rs.204.82 Lacs was obtained on 05-09-2011 and another loan of Rs.142.50 Lacs was taken from 22-03-2012 to 30-03-2012. Total interest against fresh borrowings was Rs.14.23 Lacs. Based on working of AY 2011-12 and considering interest on fresh loans taken during this year, the assessee worked out disallowance of Rs.43.45 Lacs out of which it had already disallowed interest expenditure of Rs.27.36 Lacs. The remaining disallowance of Rs.16.08 Lacs was therefore, confirmed against which the revenue is in further appeal before us.

5. It could clearly be seen that *rule of consistency* favors the case of the assessee. The working made by the assessee is in line with the view taken by the assessing authority in past three years. In AY 2011-12, the Ld. AO had verified the nexus of borrowed funds and made partial disallowance only whereas in this year, Ld. AO has made full disallowance which could not be held to be justified. Based on working of AY 2011-12 and considering interest on fresh borrowings as obtained during this year, the assessee has worked out proportionate disallowance of Rs.43.45 Lacs. The majority of borrowings pertain to earlier years. No change in facts has been demonstrated before us. Therefore, no fault could be found in the adjudication of Ld. CIT(A) on this issue. We see no reason to interfere in the same.

6. The appeal stand dismissed.

Order pronounced on 15-07-2025.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 15-07-2025.

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH