IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Income Tax Appeal No.11 of 2001
Date of Order: 19.01.2015

M/s Kishan Chand & Co. Oil Industries Ltd., Ludhiana

..Appellant

Versus

1. Commissioner of Income Tax, Ludhiana
2. Assistant Commissioner of Income Tax, Central Circle-II, Ludhiana.

..Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Alok Mittal, Advocate,
for the appellant.

Mr. Rajesh Katoch, Advocate,
for the respondents.

<u>RAJIVE BHALLA, J (Oral)</u>

The assessee is before us challenging order dated 10.04.2000, passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'B', Chandigarh, (hereinafter referred to as 'the ITAT"), on the following questions of law:-

"(a) Whether in the facts and circumstances of the case, orders, Annexure A-1 and A-3 are legally sustainable?

(b) Whether in the facts and circumstances of the case the addition of Rs.12,60,500/- can be legally sustained especially in view of assessing officers inability to establish a nexus between the interest bearing funds and the money advanced to the appellant's company's sister concerns?

(c) In the facts and circumstances of the case whether addition of Rs.10,08,789/- can be legally sustained in any case especially in light of the fact that the money lying with the sister concerns of the appellant-company as interest free loans is not a part of the overdraft amount in respect of whose interest liability the deduction is being claimed?"

Counsel for the parties agree that questions of law may be reframed in the following terms:-

"Whether the interest free money advanced to the appellant's sister concerns is occasioned by commercial expediency or not?

Counsel for the parties also agree that in view of the judgment passed in ***S.A.Builders Ltd.*** ***v.*** ***Commissioner of Income Tax(Appeals) and another***, (2006) 206 CTR (SC) 631, the Tribunal would be required to re-consider the question of commercial expediency viz-a-viz funds provided to sister concerns.

We have heard counsel for the parties, perused the impugned order as well as judgment in ***S.A.Builders Ltd.*** ***v.*** ***Commissioner of Income Tax(Appeals) and another***(supra). The question of commercial expediency viz-a-viz. money advanced to sister concerns is required to be considered. The Tribunal has not considered this aspect. Counsel for the parties agree that in this view of the matter, the appeal may be remitted to the Tribunal for adjudication afresh. Consequently, the appeal is allowed, order dated 10.04.2000, passed by the Income Tax Appellate Tribunal is set aside and the matter is remitted to the Tribunal, for adjudication afresh and in accordance with law.

(RAJIVE BHALLA)
JUDGE

January 19, 2015 **(B.S.WALIA)**
nt **JUDGE**