IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA No.347 of 2013 (O&M)
Date of decision:29.04.2015

Commissioner of Income Tax, Ludhiana

....Appellant

Versus

Amrik Singh, Proprietor M/s Nexo Products (India), Ludhiana

......Respondent

CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Rajesh Katoch, Advocate, for the appellant.

Mr.Rajiv Sharma, Advocate, for the respondent.

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S.J.Vazifdar, Acting Chief Justice (Oral):

The appellant has raised the following questions of law:

"(i) Whether on the facts and circumstances of the case, the Hon'ble ITAT was justified in law, in deleting the addition of Rs. 1,25,00,000/- made u/s 2(22)(e) of the Income Tax Act, 1961 which was partly confirmed by the CIT(A) to the tune of Rs. 20,42,725/-.
(ii) Whether on the facts and circumstances of the case, the Hon'ble ITAT was justified in law in upholding the order of the Ld. CIT(A) in which disallowance of Rs. 1,12,073/- made u/s 40A(2)(b) being excess interest paid at 15% to specified persons as against average rate of interest at 12% being paid to banks and other financial institutions was deleted.
(iii) Whether on the facts and circumstances of the case, the Hon'ble ITAT was justified in law in upholding the order of the CIT(A) deleting the disallowance of Rs. 87,220/- made u/s 36(1)(iii) of the Income Tax Act, 1961 in respect of proportionate interest on borrowed funds used for capital work in progress."

2. The first question has already been answered in favour of the respondent-assessee, in this very appeal, by the order of the Division Bench dated 20.02.2015.

3. The second question raised is not a substantial question of law. It is purely a question of fact. The Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal rightly held that the mere fact that the assessee obtained loans @ 12% per annum does not belie the assessee's contention that the loans are from the family, which are at 15% per annum. It was a question of appreciation of fact and thus, no question of law arises.

4. The third question is also, admittedly, a question of fact, namely, as to whether the amounts borrowed were used for capital work in progress. Even in the previous years, the assessee's case has been upheld.

Thus, no substantial question of law arises for consideration and the appeal is, accordingly, dismissed.

(S.J.Vazifdar)
Acting Chief Justice

29.04.2015
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(G.S.Sandhawalia)
Judge