

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-20-2017 (O&M)

Date of Decision: 8.8.2017

The Principal Commissioner of Income Tax (Central), Ludhiana

....Appellant.

Versus

M/s MBD Printographics Pvt. Ltd., Jalandhar

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AMIT RAWAL.**

PRESENT: Mr. Rajesh Katoch, Senior Standing Counsel for the appellant.

Mr. Pankaj Jain, Senior Advocate with
Mr. Sachin Bhardwaj, Advocate for the respondent.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of two appeals bearing ITA-20 and 21-2017 as according to learned counsel for the parties, similar issues arise for consideration in these appeals. For brevity, the facts are being extracted from ITA-20-2017.

2. ITA-20-2017 has been filed by the revenue under Section 260A of the Income Tax Act, 1961 (in short “the Act”) against the order dated 24.6.2016 (Annexure A-III) passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (hereinafter referred to as “the Tribunal”) in ITA No. 195(Asr)/2015 for the assessment year 2011-12, claiming the following substantial questions of law:-

- (i) Whether on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal, Amritsar Bench, Amritsar has erred in deleting the addition of ₹ 1,94,74,037/- on account of disallowance of interest expenditure, ignoring the specific finding of the CIT(A) that the assessee had not even attempted to show that the investments in sister concerns served any business purpose?
- (ii) Whether on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal, Amritsar Bench, Amritsar has erred in deleting the addition of ₹ 1,94,74,037/- on account of disallowance of interest expenditure without appreciating the finding of the CIT(A) that funds raised on interest for working capital requirements had to be raised to make up for the shortfall caused by interest free investments in sister concerns which did not serve any business purpose for the assessee company?
- (iii) Whether the Hon'ble ITAT, while allowing relief to the assessee, has erred in law in ignoring an important issue that the investment made by the assessee in the shape of 'Share Application Money' in those sister concerns, the share capital of which was almost fully subscribed, was a colorable

transaction of interest free loans/advances to its sister concerns and such colorable transactions are not permissible in the eyes of law?

2. Put shortly, the facts necessary for adjudication of the present appeal as narrated therein are that the assessee is engaged in the business activity of publication and printing of books and manufacturing of paper. The assessee filed its return of income electronically on 30.9.2011 declaring the total income at ₹ (-) 1,64,95,079/-. The case was selected for scrutiny under CASS and notice dated 28.8.2012 under Section 143(2) of the Act was issued. Subsequently, statutory notices dated 29.9.2013 and 21.11.2013 under Section 142(1) of the Act along with questionnaires were issued to the assessee followed by queries vide order sheet entries dated 6.12.2013 and 18.12.2013. During the course of assessment proceedings, it was noticed that an amount of ₹ 67,25,52,955/- was standing as investments in various related sister concerns but the assessee had not received any interest to its sister concern in the shape of 'Share Application Money'. The assessee had claimed expenditure on account of bank interest. Accordingly, the Assessing Officer vide assessment order dated 30.12.2013 (Annexure A-I) disallowed the expenditure of ₹ 1,94,74,037/- of bank interest on CC Limit and added the same to the income of the assessee. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [for brevity "the CIT (A)"]. The CIT(A) vide order dated 27.2.2015 (Annexure A-II) confirmed the disallowance of interest expenditure made by the Assessing Officer and dismissed the appeal. Against the order, Annexure A-II, of the CIT(A), the assessee filed an appeal before the Tribunal, who vide order dated 24.6.2016 (Annexure A-

III) allowed the appeal and deleted the additional on account of disallowance of interest expenditure. Hence, the present appeals by the revenue.

3. We have heard learned counsel for the parties.

4. It is not disputed by the learned counsel for the revenue that the issue raised herein stands concluded by the decisions of this Court in **ITA No. 163 of 2017 [The Pr. Commissioner of Income Tax (Central), Ludhiana v. Shri Satish Bala Malhotra, Legal Heir of Shri Ashok Kumar Malhotra, Prop. M/s Modern Publishers, MBD House, Railway Road, Jalandhar]** decided on 17.4.2017 and **ITA No. 31 of 2017 [The Pr. Commissioner of Income Tax (Central), Ludhiana v. M/s Malhotra Book Depot, MBD House, Railway Road, Jalandhar]** decided on 23.2.2017 wherein the appeals filed by the revenue on similar issues have been dismissed.

5. In view of the above, both the appeals are dismissed.

(AJAY KUMAR MITTAL)
JUDGE

August 8, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes