IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-94-2017 (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 appeal has been filed by the revenue under Section 260A of the Income Tax Act, 1961 (in short "the Act") against the order dated 13.6.2016 (Annexure A-III) passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (hereinafter referred to as "the Tribunal") in ITA No. 534(Asr)/2014 for the assessment year 2010-11, 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 ₹ 1,22,51,965/- 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 ₹ 1,22,51,965/- 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 on the facts and in the circumstances of the case, the Hon'ble Income Tax Appellate Tribunal, Amritsar Bench, Amritsar has erred in upholding the order of the CIT(A) in deleting the disallowance of deduction u/s 80-IC of the Income Tax Act, 1961 made by the AO on the job work got done outside the specified area, i.e. Himachal Pradesh and on the trading receipt from sale of unused papers, following its decisions in the case of the assessee for the assessment years 2005-06 to

2009-10, against which the appeals filed by the revenue are still pending adjudication in ITA Nos. 117 to 122 of 2013 before this Hon'ble Court?

2. Put shortly, the relevant facts necessary for adjudication of the instant appeal as discernible from the record are that the assessee is engaged in the business activity of publication and printing. The assessee e-filed its return of income on 29.9.2010 declaring the total income at ₹ 6,06,45,948/-. The case was selected for scrutiny under CASS and notice dated 2.9.2011 under Section 143(2) of the Act was issued. Subsequently, statutory notice dated 22.11.2012 under Section 142(1) of the Act along with questionnaire was issued to the assessee. During the course of assessment proceedings, it was, *inter alia,* noticed that an amount of ₹ 23,23,31,000/- was standing as investments in various related sister concerns but the assessee had not received any interest or return on account of such investments. It was further noticed that after making advances, the assessee itself had applied for interest linked loans and was bearing the interest burden. It was also observed that if the assessee had excess surplus funds then there was no need to take interest bearing loans. The Assessing Officer vide assessment order dated 28.3.2013 (Annexure A-I) disallowed the interest expenditure of ₹ 1,22,51,965/- and added the same to the income of the assessee. The claim of the assessee under Section 80-IC of the Act on the job work got done outside the specified area, i.e., Himachal Pradesh and on the trading receipt from sale of unused papers was also not accepted. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals)-I [for brevity "the CIT(A)"]. The CIT(A) vide order dated 8.7.2014 (Annexure A-II) confirmed the disallowance of interest expenditure made

by the Assessing Officer whereas the claim made under Section 80-IC of the Act was held to be allowable and by adjustment made by the Assessing Officer while disallowing part of deduction was held to be not sustainable and partly allowed the appeal. Against the order, Annexure A-II, the assessee and the revenue filed separate appeals before the Tribunal, who vide order dated 13.6.2016 (Annexure A-III) allowed the appeal filed by the assessee and deleted the addition on account of disallowance of interest expenditure. However, the appeal of the revenue was dismissed. Hence, the present appeal by the revenue.

3. We have heard learned counsel for the parties.

4. Learned counsel for the parties were ad-idem that question Nos. (i) and (ii) relating to deletion of addition of ₹ 1,22,51,965/- on account of disallowance of interest expenditure stands concluded by the decision dated 17.4.2017 passed by 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]** whereby the questions have been decided against the revenue. Accordingly, question Nos. (i) and (ii) are decided against the revenue.

5. Further, question No. (iii) relating to disallowance of deduction under Section 80-IC of the Act, vide decision dated 17.5.2017 passed by this Court in **ITA No. 15 of 2017 [The Pr. Commissioner of Income Tax (Central), Ludhiana v. M/s MBD Printographics Pvt. Ltd.]**, the matter had been remanded to the Tribunal for fresh adjudication after affording an opportunity of hearing to the parties.

6. In view of the above, the matter is remanded to the Tribunal for

fresh adjudication on Question No. (iii) after affording an opportunity of hearing to the parties.

7. The appeal stands disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

August 8, 2017 **(AMIT RAWAL)**
gbs **JUDGE**

Whether Speaking/Reasoned	**Yes**
Whether Reportable	**Yes**