389 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

ITA No.129 of 2000 (O&M)
Date of decision : 20.01.2020

M/s Industrial Cables (India) Ltd.

...... Appellant

versus

Commissioner of Income Tax, Patiala & anr.

...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE AVNEESH JHINGAN

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

Mr. Jitin Kohli, Jr. Standing Counsel for
Mr. Kunal Sharma, Sr. Standing Counsel
for the respondents.

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AJAY TEWARI, J. (Oral)

1 This appeal has been filed by the Assessee under Section 260-A of the Income Tax Act, 1961 (in short “the Act”) against the order of the Income Tax Appellate Tribunal, Chandigarh in ITA No.487/Chandi/1992 for the assessment year 1990-1991 disallowing the credit of Rs.89,854/- to the sister concerns on the specific ground that the advances given to the sisters concerns were not proved to be relating to the trading activities of the Assessee.

2 The following questions of law have been raised in the present appeal :-

> *(a) Whether in the facts and circumstances of the case, orders annexures P-1, P-2 and P-3 are legally sustainable?*

(b) Whether in the facts and circumstances of the case, the addition of Rs.89,854/- on account of disallowance on the claim of interest free loans can be sustained at law in view of the decision of the Hon'ble Madras High Court in the case of 'C.I.T. Versus Hotel Savera" reported in 239 I.T.R. 795?

(c) Whether in the facts and circumstances of the case, the addition of Rs.89,854/- on account of disallowance of the claim of interest fee loans can be sustained at law, the same being made on the basis of mere presumptions and conjectures without there being any independent evidence on record to show that the amount forwarded were out of the borrowed funds of the assessee-appellant?

(d) Whether in the facts and circumstances of the case, the addition of 50% of Rs.36,040/- on account of disallowance under rule 6D of Foreign Travel Expenses can be sustained at law inspite of the disclosure made being a voluantry disclosure by the assessee-appellant and there being no independent and corroborative evidence on record to show the expenses allegedly made by the assessee-appellant?"

3 The submission of the learned counsel for the appellant is that in view of the decision of Supreme Court in ***S.A.Builders Ltd. Vs. Commissioner of Income Tax (Appeals) and another, 2007 (15) SCC 147*** and ***Bright Enterprises (P) Ltd. Vs. Commissioner of Income Tax (2016) 381 ITR (P&H)*** (of this Court) matter be remanded back to the Tribunal for a fresh decision in accordance with law.

4 Counsel for the respondent-revenue is not in a position to cite any contrary judgment.

5 As regards, the issue No.4 of substantial question of law of dis-allowance of the travel expenses of the Directors, no question of law arises. Consequently, the same is rejected.

6 In the circumstances, we deem it appropriate to allow this appeal to the above mentioned limited extent, set aside the impugned order and remand the matter back to the Tribunal for taking a decision as per law.

7 Parties through counsel are directed to appeal before the Tribunal on 16.03.2020.

8 Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

20.01.2020
pooja sharma-I

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No