



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

203

ITA-269-2009

Date of Decision: 19.01.2026

COMMISSIONER OF INCOME TAX -II, CHANDIGARH ...Appellant

Vs.

M/S SMITHKLINE BEECHAM CONSUMER HEALTH CARE LTD.
(NOW GLAXO SMITHKLINE CONSUMER HEALTHCARE LTD.)

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present:- Ms. Urvashi Dhugga, Sr. Standing Counsel with
Mr. Vaibhav Gupta, Standing Counsel and
for appellant-Income Tax Department

Mr. Rohit Jain, Advocate(*through V.C.*)
Mr. Vaibhav Kulkarni, Advocate (*through V.C.*) and
Mr. Abhishek Sharma, Advocate for
Mr. Vishal Gupta, Advocate
for the assessee

JAGMOHAN BANSAL, J. (ORAL)

1. The appellant through instant appeal under Section 260A of the Income Tax Act, 1961 is seeking setting aside of order dated 31.01.2025 passed by Income Tax Appellate Tribunal, Chandigarh.

2. The appellant has raised following questions for adjudication by this Court:-

- (i) Whether on facts and in the circumstances of the case, the ITAT is right in law in permitting the change in method of accounting with regard to the valuation of closing stock from absorption cost method to direct cost method?

OR

Whether on the facts and in the circumstances of the case, the ITAT was right in holding that the change in the method of accounting with regard to the valuation of stock is bonafide and not with an intention to defeat the Revenue, when the issue of determining items of direct cost is highly debatable?

- (ii) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT is correct in law in holding that since direct nexus has not been established between the interest bearing funds and investments made in the units of UTI and under Portfolio Management Scheme, interest on borrowed capital so invested, cannot be reduced from the dividend income, while computing deduction u/s 80M of the I.T. Act, ignoring the decision of the jurisdictional High Court in the case of M/s Abhishek Industries. (2006) 286 ITR 1 (P&H)?
- (iii) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in upholding the order of the CIT (Appeals) in deleting the addition made on account of change in the method of valuation of closing stock in respect of excise duty?
- (iv) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in upholding the order of the CIT(Appeals) in deleting the addition made on account of disallowance of claim for deduction u/s 80-I of the I.T. Act, 1961, in as much as the machineries had been installed in the same existing factory premises, as no mention of expansion of

the existing factory in the annual report of the company was there and nor any separate accounts & other details relating to unit for which deduction u/s 80-I was claimed, were maintained?

- (v) Whether on the facts and in the circumstances of the case, the ITAT was right in law in upholding the order of the CIT (A) in deleting the addition made on account of deemed interest from deposits given to the landlords for leased premises hired for the use of certain directors and top employees of the assessee?
- (vi) Whether on the facts and in the circumstances of the case, the ITAT is correct in law in holding that interest on capital borrowed for acquisition of new machinery and overhead expenses incurred during trial run period in expansion of its existing business are expenses of revenue nature?

3. We have heard learned counsel for the parties and perused the record.

4. **Questions No. (i) and (iii):-** learned counsel for the appellant concedes that the aforesaid questions stand answered by this Court vide order dated 27.11.2025 passed in ITR-62 to 65-1995. Answered accordingly.

5. **Question No. (ii) :-**

5.1 The appellant is claiming that liability of interest incurred by respondent-assessee was required to be deducted from dividend income. The Assessing Authority returned findings against the assessee. Matter came up before CIT (Appeals) who vide order dated 27.10.1997 held that interest on loan directly attributable to investment has to be deducted from dividend

income, however, remaining interest liability cannot be deducted from dividend income. The Revenue has succeeded to establish that a sum of Rs.16,32,54,000/- was borrowed from Bank of America which was utilized to purchase units of UTI. The liability of interest on aforesaid amount ought to be deducted from dividend income. The findings recorded by CIT (Appeals) reads as:-

“9.3 I have carefully considered the rival contentions and the case law cited by the assessing officer and the appellant. I have no hesitation in holding that the view of the decision of the Apex Court in the case of Distributors (Baroda) Pvt. Ltd. Vs. union of India-155 ITR 120(SC), the deduction u/s 80M is allowable to the assessee on net dividend only and not on gross dividend. Thus the action of the assessing officer in adopting the method of computing the deduction u/s 80-M by reducing the interest on borrowed capital is accordingly to law and is upheld. The applicant's plea in this respect stands rejected. As regards the reliance of the Assessing Officer on the ratio laid down in the case of CIT Vs. United General Trust Ltd.- 200-ITR-488(s) is concerned, the Assessing Officer has not apportioned any management expenses towards the earning of the dividend. It is, therefore, appears to have been presumed by the Assessing Officer that no such expenses were apportionable. I failed to subscribe to this view of the Assessing Officer as substantial investment in purchase and sale of units and in the portfolio Management account has been done, which would definitely entail the utilization of time and effort on the part of the management of company who are drawing substantial remuneration and perquisites from the company . The Assessing Officer is, therefore, directed to look into this aspect afresh, and apportionate the suitable management expenditure towards earning of the dividend income. To this limited extent the matter is restored to his file. In view of the decision of the Apex court in the case of H.K. Investment Co. Vs. CIT-Reported in 211 ITR 511, the apportioned bifurcation

of the interest paid by the assessee is to be allowed proportionately from income from business and dividend income u/s 36(i)(iii) and 57(iii) of the I.T. Act, 1961. However, the Assessing Officer has trusted the whole of the interest claimed as attributable to dividend income. This action of the Assessing Officer is against the facts of the case. The Assessing Officer has also not established any nexus between the interest bearing loans and investments in the units etc. The appellant had, as already discussed in para 9.2 above, the appellant had substantial interest free funds available with it to cover the investment in the units etc. In order to verify this contention of the appellant. I have carefully examined the details of units sold and purchased by the assessee during the year which is as under:-

Details of purchase of units:

Sr. No.	Date of Purchase	No. of Units	Purchase price
1.	30.5.91	10465000	163254000
2.	01.6.91	10400000	137092800
3.	31.7.91	2500000	33175000
4.	09.8.91	2400000	32184000
5.	03.10.91	-	<u>29995704</u>
		Total	<u>25765000</u> <u>395701504</u>

Details of profit/loss on sale of investment:-

Sr. No.	Date of Purchase	No. of Units	Sale price	Purchase price
1.	9.4.91	2130000	31291830	31152315
2.	1.6.91	10400000	135200000	137092800
3.	15.7.91	11000000	169070000	167136866
4.	8.8.91	2500000	33375000	33175000
5.	29.8.91	2400000	32450400	32184000
6.	29.10.91	-	<u>30364318</u>	<u>29995704</u>
		Total	<u>28430000</u>	<u>431751548</u> <u>430736685</u>

The scrutiny reveals that except for the purchase of units on 30-05-91 for a total purchase of Rs. 16,32,54,000/-, the other purchases are financed out of the sale of the sale of the units

already available with the appellant. The scrutiny of the loan account available with bank of America reveals that a loan of Rs.16.51,00,000/- was sanctioned to the appellant on 30-05-91 and this was credited in the appellant's bank account No. 011/35/17553/ on 01-06-1991. The opening balance in this account on 01-06-91 was Rs. 18,92,800/-. On the same date the cheque of the value of Rs. 16,32,54,000/- for the purchase of units was encashed, bringing the net balance after the encashment of this cheque to Rs. 53,200/- only. This clearly establishes that this amount of loan has direct nexus with the purchase of the units on 30-05-91. Thus, I have no hesitation in holding that a sum of Rs. 16,32,54,000/- has been interest bearing loan has been diverted for purchase of units. The interest on this account works out to Rs. 80,49,678/-. Thus, this expenditure has to be deducted from the gross dividend in view of the Supreme Court judgement cited above. As regards, the balance interest in the absence of any direct nexus between the interest bearing loans and in view of the fact that the appellant company had substantial interest free loans available with it, the assessing officer's action in allocating the interest amounting to Rs. 5,84,59,408/(6,65,09,086/- 80,49,678/-) and deducting the same from gross dividend is not sustainable.

5.2 The aforesaid findings recorded by CIT (Appeals) have been upheld by Tribunal.

5.3 From the perusal of findings recorded by CIT (Appeals) as well as Tribunal, it is evident that pure question of fact is involved. There is no question of law. The Revenue succeeded to link part of investment with borrowed money and failed to link remaining investment with borrowed money. In the absence of evidence, the entire interest liability could not be deducted from dividend income. It is pure question of fact that how much borrowed money related to investment. The authorities below examined each investment vis-à-vis borrowed money. This Court finds that no question of

law much less substantial question of law is involved. Accordingly, appeal qua said question is hereby dismissed.

6. **Question No. (iv):-**

6.1 Learned counsel for the assessee submits that aforesaid issue was answered by Tribunal in favour of assessee vide order dated 19.07.2002 for the Assessment Year 1989-90. The said order was based upon order passed for the Assessment Year 1979-80. The order passed for the Assessment Year 1989-90 was not challenged on the ground of low tax effect.

6.2 Learned counsel for the Revenue submits that aforesaid issue may not be adjudicated against the Revenue on the sole ground that order passed for the Assessment Year 1979-80 was not challenged.

6.3 We find no substance in the argument of Revenue, accordingly appeal qua said issue is dismissed.

7. **Question No. (v)**

7.1 The Revenue is claiming that money deposited by assessee as security with landlord of leased property should be subjected to deemed income and in turn deemed income should be included in the income of assessee.

7.2 The assessee deposited security with owners of property who had let out their premises. The said premises were utilized by employees of the company. Revenue believes that assessee deposited money with landlords for taking property on lease for its employees and had money not been deposited with landlords, it would have been utilized in the business and there would have been income @18% p.a. The said deemed income is taxable in the hands of assessee.

7.3 Tax cannot be charged on the basis of assumptions and surmises. There should be actual income. The assessee made deposits for hiring properties to be utilized by its employees. The activity of assessee was in the course of business affairs. There was no question to create deemed income in the hands of assessee and thereafter demand tax on the said amount. The Tribunal has rightly rejected contention of the Revenue.

8. **Question No.(vi)**

8.1 Learned counsel for the Revenue fairly submits that the aforesaid issue stands settled by Hon’ble Supreme Court in “*Deputy Commissioner of Income Tax. Vs. Core Health Care Ltd.*”, (2008) ITR 194 (SC), against the Revenue. Accordingly, answered against the Revenue.

9. In the above premise, the instant appeal stands disposed of.

10. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

January 19, 2026
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No