

**IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCHES, CHANDIGARH**

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER AND
MS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No. 431/CHD/2016
Assessment year: 2012-13

M/s Haryana State Minor Irrigation & Vs. The DCIT, Circle,
Tubewell Corporation Limited, Panchkula
Panchkula

PAN No.AABFH8314F

(Appellant)

(Respondent)

Assessee By : Sh. Tej Mohan Singh, Adv.
Department By : Sh. Sushil Kumar, CIT DR

Date of hearing : 06.10.2016
Date of Pronouncement : 07.11.2016

ORDER

PER ANNAPURNA GUPTA, A.M.

This appeal has been filed by the assessee against the order of CIT(A)-2, Gurgaon dated 15.2.2016. The assessee has raised the following grounds:

1. *That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in upholding the action of the Assessing Officer whereby he has stated that no expenditure is to be allowed as business expenditure after the closure of the business and thereby bringing to tax the entire receipts of Rs.2,34,42,801/- which is arbitrary and unjustified.*

2. *That the entire expenditure on account of pay and allowances which includes salaries, TA, medical, retrenchment compensation, gratuity and leave encashment, leave salary and pension contribution, advertisement expense, bank charges, electricity and water charges, legal charges, repair and maintenance of vehicles, telephone, postage and telegraph, printing and stationary, rent ,rate. etc. totalling Rs.4.24,47,517/- as claimed is allowable as such and no disallowance is called for and as such disallowing the same is arbitrary and unjustified.*
3. *That the Ld. Commissioner of Income Tax(Appeals) has further erred in upholding the disallowance of interest claimed at Rs. 10,16,03,500/- which is arbitrary and unjustified.*
4. *That the Ld. Commissioner of Income Tax(Appeals) has further erred in upholding the disallowance of depreciation claimed at Rs.6,518/- which is arbitrary and unjustified.*
5. *That without prejudice to the above, even if it is held that no expenditure is to be allowed as alleged by the Ld. Commissioner of Income Tax (Appeals), the expenditure ought to have been held allowable under section 57 of the Act to be set off against interest income.*

2. Briefly, the facts relating to the case are that the assessee filed its return of income declaring nil income. During assessment proceedings, the Assessing officer noticed that the assessee company had closed its business operation w.e.f. 30.7.2002 with the approval of the appropriate authority.

Further that during the year under consideration, had debited the following expenses to its profit and loss account:-

| | | |
|--------------------------|------------|-----------------------|
| <i>Sales & wages</i> | <i>Rs.</i> | <i>4,24,47,517/-</i> |
| <i>Interest</i> | <i>Rs.</i> | <i>10,16,03,500/-</i> |
| <i>Depreciation</i> | <i>Rs.</i> | <i>6,519/-</i> |
| <i>Total</i> | <i>Rs.</i> | <i>14,40,57,536/-</i> |

3. During the course of assessment proceedings, the assessee was asked to explain as to why the above expenses made be disallowed as no business activity was carried out during the year. The assessee submitted that it had no objection to the disallowance of expenses pertaining to salary and wages which was disallowed by the Assessing officer. As far as interest claim amounting to Rs. 10,16,03,500/-, the assessee stated that it was provision created on account of interest payable to the government on loan raised and was thus allowable. The Assessing officer disallowed the same since no business was carried out by the assessee and also for the reason that the same had not been paid. Similarly, depreciation amounting to Rs. 6,519/- was disallowed in the absence of any business activity carried out by the assessee. Thus, entire expenses amounting to Rs. 14,40,57,536/- was disallowed and added to the income of the assessee. During appellate proceedings, the assessee conceded that the issue was covered against it by the order of the ITAT in its own case for assessment year 2009-10 following which the Ld. CIT(A) upheld the disallowance made. Aggrieved by the same, the assessee filed the present appeal before us.

4. Before us, Ld. Counsel for the assessee conceded that the issue was covered against the assessee by the order of the ITAT in assessee's own case for assessment year 2009-10.

5. We have gone through the order in the case of the assessee for assessment year 2009-10 in ITA No. 740/Chd/2014 and find that identical issue had come up for consideration before the Tribunal which was decided against the assessee following the decision in the case of M/s Haryana State Small Industries & Export Corporation Ltd, Chandigarh Vs. The Addl. CIT in ITA No. 898/Chd/2009 as under:-

“Following the above we decide the issue regarding disallowance of expenditure and interest against the assessee. However we find force in the submissions of Ld. Counsel for the assessee that as far as income from house property is concerned same should have been assessed as income from house property and corresponding 30% statutory deduction should have been allowed. Therefore, we set aside the order of Ld. CIT(A) and direct AO to assessed the house property income under the head income from house property and corresponding deduction should have been given.”

6. In view of the above, we decide the issue regarding disallowance of expenditure, interest and depreciation against the assessee. The appeal of the assessee is, therefore, dismissed

7. In the result, the appeal of the assessee is dismissed

Order Pronounced in the Open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Dated :7th November, 2016
Rkk

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT*
4. *The CIT(A)*
5. *The DR*

