

**आयकर अपीलिय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH**  
**(VIRTUAL COURT)**

**श्री एन.के.सैनी, उपाध्यक्ष एवं श्री आर.एल. नेगी, न्यायिक सदस्य**  
**BEFORE: SHRI. N.K.SAINI, VP & SHRI, R.L. NEGI, JM**

आयकर अपील सं./ ITA NO. 1158/Chd/2019

निर्धारण वर्ष / Assessment Year : 2012-13

|  |      |                                   |
|--|------|-----------------------------------|
| Monte Carlo Fashions Ltd.<br>106, G.T. Road, Sherpur, Ludhiana, Punjab | बनाम | The ACIT<br>C-7, Ludhiana, Punjab |
| स्थायी लेखा सं./PAN NO: AAFCM7888Q                                     |      |                                   |
| अपीलार्थी/Appellant  |      | प्रत्यर्थी/Respondent             |

निर्धारित की ओर से/Assessee by : Shri Navdeep Sharma, Advocate

राजस्व की ओर से/ Revenue by : Shri Ashok Khanna, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 26/07/2021

उद्घोषणा की तारीख/Date of Pronouncement : 26/07/2021

**आदेश/Order**

**PER N.K. SAINI, VICE PRESIDENT**

This is an appeal by the assessee against the order dt. 01/06/2019 of the Ld. CIT(A)-3, Ludhiana.

2. Following grounds have been raised in this appeal:

1. That the Worthy CIT(A)-3, Ludhiana erred in law and on facts in upholding the addition/disallowance of Rs. 5,20,493/- being disallowance of interest of CC account, for capital advances for purchase of assets.

Directions be given to delete the said disallowance as the appellant has sufficient own funds in the shape of capital and reserves.

2. That the Worthy CIT(A)-3, Ludhiana erred in law and on facts in upholding the addition/disallowance of Rs. 5,20,493/-, by not directing the assessing officer to give the appeal effect to the order of Hon'ble ITAT, as per its directions, in appeal No. 1341/Chd/2016, in view of the decisions of Hero Cycles (P) Ltd. Vs. CIT, Ludhiana in order dated 05.11.2015 in CA No. 514 of 2008 and in light of Bright Enterprises Pvt. Ltd. Vs. CIT, Jalandhar reported in (2016) 381 ITR 107 (P&H) wherein, it was held that where the assessee has got sufficient funds in the shape of capital & reserves, then no amount of interest is called for.

Directions be given to delete the said disallowance as the appellant has sufficient own funds in the shape of capital and reserves.

3. *That the appellant craves, leave to add, amend, alter, modify or substitute all or any of the above mentioned Ground of appeal before the appeal is finally heard and disposed off.*

From the aforesaid grounds it is gathered that only grievance of the assessee relates to the sustenance of addition of Rs. 5,20,493/- made by the A.O. by making the disallowance of interest of C.C. Account.

3. Facts of the case in brief are that this case was earlier decided by the ITAT 'B' Bench, Chandigarh vide order dt. 12/10/2017 in ITA No. 1341/Chd/2016 and the issue under consideration was set aside to the file of the A.O. to be decided after verification from the record as to whether the assessee was having surplus funds and whether any borrowed funds have been utilized more than available own funds and that if sufficient funds were available no disallowance was called for under section 36(1)(iii) of the Income Tax Act, 1961 (for short the 'Act'). However, the A.O. again made the disallowance of Rs. 16,79,012/-.

4. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who sustained the addition of Rs. 5,20,943/- on the basis of debt equity ratio.

5. Now the assessee is in appeal.

6. The Ld. Counsel for the assessee furnished a chart to substantiate that the assessee was having surplus funds therefore the disallowance made by the A.O. and sustained by the Ld. CIT(A) was not called for. The said chart furnished by the Ld. Counsel for the assessee reads as under:

| <b>Monte Carlo Fashions Limited</b> |  |                      |                      |
|-------------------------------------|--|----------------------|----------------------|
|                                     |  | Asstt. Year 2012-13  |                      |
|                                     |  | ITA No.1158/CHD/2019 |                      |
| 1                                   | <b>Own funds</b>                                       |                      |                      |
|                                     | Share Capital & Reserves<br>(Page-26 of Balance Sheet) |                      | 1547078929 (A)       |
| 2                                   | <b>Less: Long Term Borrowing</b>                       |                      |                      |
| a)                                  | Term loans from Bank (Page-26)                         | 435193683            |                      |
| b)                                  | Current maturity of Long Term debt<br>(Page-30)        | <u>27073404</u>      |                      |
|                                     | Total Borrowing:                                       | 462267087            |                      |
|                                     | <b>Less: Non Current Assets (Page-26)</b>              |                      |                      |
| a)                                  | Tangible Assets (Net Block)                            | 491208276            |                      |
| b)                                  | Intangible assets                                      | 3594                 |                      |
| c)                                  | Capital work in progress                               | 193084268            |                      |
| d)                                  | Long Term loans & Advances                             | <u>132825323</u>     | <u>817121461</u>     |
|                                     |  |                      | <u>354854374</u>     |
| 3                                   | Balance own funds available<br>(1-2)                   |                      | 1192224555 (B)       |
| 4                                   | <b>Current assets</b>                                  |                      |                      |
| a)                                  | Inventories  | 1115431302           |                      |
|                                     | Less: Short term borrowing                             | <u>185166903</u>     |                      |
|                                     | Balance funds available (B-C)                          |                      | <u>930264399</u> (C) |
|                                     |  |                      | <u>261960156</u>     |

Addition made to fixed assets including machinery & plant - 11.68 Cr.  
out of net funds available of Rs.261960156/-

The Ld. Counsel for the assessee was fair enough to admit that the aforesaid chart was neither before the A.O. nor before the Ld. CIT(A).

7. In his rival submissions the Ld. Sr. DR strongly supported the orders of the authorities below and further submitted that the disallowance sustained by the Ld. CIT(A) was justified.

8. We have considered the submissions of both the parties and perused the material available on the record. In the present case it is an admitted fact that the issue under consideration was set aside to the file of the A.O. vide order dt. 12/10/2017 in ITA No. 1341/Chd/2016 in assessee's own case by the ITAT 'B' Bench, Chandigarh. Now the Ld. Counsel for the Assessee has furnished a chart to substantiate that the surplus funds available with the assessee were sufficient to meet out the investment in the assets, therefore, disallowance made by the

A.O. on account of interest was not justified. However the said chart was not available to the A.O. or the Ld. CIT(A). We therefore, deem it appropriate to set aside this issue back to the file of the A.O. to be adjudicated afresh after considering the aforesaid chart and in accordance with the direction given by the ITAT 'B' Bench, Chandigarh vide order dt. 12/10/2013 in ITA No. 1341/Chd/2016 wherein it was directed that the A.O. should go through the fund position namely capital and interest free advances, reserve and surplus to determine whether any borrowed funds had been utilized more than available funds and to take a decision. In view of the above this issue is set aside to the file of the A.O.

9. In the result, appeal of the assessee is allowed for statistical purposes.

(Order pronounced in the open Court on 26/07/2021 )

**Sd/-**

**आर.एल. नेगी**  
**(R.L. NEGI )**

**न्यायिक सदस्य/ Judicial Member**

**AG**

**Date: 26/07/2021**

**Sd/-**

**एन.के.सैनी,**  
**( N.K. SAINI)**

**उपाध्यक्ष / VICE PRESIDENT**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File