IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Income Tax Appeal No.74 of 2005
Date of decision: September 12 , 2006

Commissioner of Income-tax (Central), Ludhiana

v.

M/s Avery Cycle Inds. Ltd., Ludhiana

Present: Mr.S.K.Garg, Advocate for the appellant
Mr.Akshay Bhan, Advocate for the respondent.

CORAM:
Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr. Justice Rajesh Bindal

Rajesh Bindal, J.

This appeal by the revenue is directed against order dated 21.9.2004, passed by the Income-tax Appellate Tribunal, Chandigarh Bench `B' (for short, `the Tribunal') in I.T.A. No. 116/Chandi/98, for the assessment year 1994-95, raising the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding expenses of Rs. 2,69,795/- spent on silver articles for distribution to domestic and foreign dealers as business expenditure?
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in deleting the disallowance of interest of Rs.2,43,000/- on the ground that there is no direct nexus between the borrowings and interest free advances made to certain parties?"

While dealing with I.T.A. No.73 of 2005 –Commissioner of Income-tax (Central), Ludhiana v. M/s Avery Cycle Inds. Ltd., Ludhiana, wherein a common order passed by the Tribunal for the assessment years 1993-94 and 1994-95 was under consideration, this Court has decided issue No.(i) against the Revenue and in favour of the assessee. Considering the facts of the present case also, amount of Rs. 2,69,795/- spent on purchase of silver articles for distribution

to domestic and foreign dealers cannot be held to be for non-business purposes, keeping in view the nature of business, quantum of turnover and the profits generated from it. Accordingly, the same is decided against the Revenue and in favour of the assessee.

As far as question No.(ii) is concerned, following the reasons recorded in M/s Avery Cycles Inds. Ltd.'s case (supra), the same is decided against the assessee and in favour of the Revenue.

Accordingly, the appeal is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

September 12 , 2006
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