

Loan advanced to AE couldn't be said to be for non-business purpose if assessee and its AE were in same business

Summary – The High Court of Madras in a recent case of Industrial Feeders., (the Assessee) held that where both assessee and its sister concern whom assessee had advanced loans were manufacturer of G.I. castings, without indicating difference in nature of their business activities, revenue could not disallow interest on borrowed capital on ground that loan was advanced for non-business purpose

Facts

- The assessee filed its return of income. The return was processed under section 143(1)(a) and a notice was issued under sub-section (2) of section 143. The Assessing Officer found that the assessee had advanced a sum of Rs. 16,07,809 to one of its sister concerns Krisoraf.
- Since the net credit balance in the partners' capital accounts and current accounts was only Rs. 2,95,644, the Assessing Officer treated the balance of Rs. 13,12,164 as out of interest bearing loans. Consequently, the Assessing Officer disallowed interest on the said amount at 24 per cent per annum.
- On appeal, the Commissioner (Appeals) found that what was lent during the relevant assessment year was only Rs. 2,89,610 and that therefore, interest on the said amount could be disallowed. Therefore, the Commissioner (Appeals) allowed the appeal in part and remitted the matter back to the Assessing Officer for re-computation of the quantum of disallowance.
- The Tribunal allowed the appeal and restored the order of the Assessing Officer.
- On appeal:

Held

- The assessee was admittedly engaged in the business of manufacture of G.I. castings. It is also admitted that the concern, to which, interest-free advances were paid, is the sister concern of the appellant. It is also not in dispute that the amount of interest-free loans advanced during the relevant assessment year was lesser than the total amount now sought to be taken into account by the Assessing Officer.
- Keeping the above admitted facts in mind, if we have a look at the orders of the three Authorities, it could be found that the only reason as to why the Authorities disallowed interest on the loans advanced by the assessee to its sister concerns, is the fact that the lending was for non-business purposes.
- But, a look at the orders of the three Authorities would show that there was no basis for the Authorities to come to the conclusion that the amounts were lent for non-business purposes. Krisoraf is obviously a casting company. The appellant is a manufacturer of G.I. castings. There was

no indication about the nature of businesses that the appellant as well as the borrowers were engaged in. A finding made on thin air that the amounts were lent for non-business purposes cannot be sustained.