

Motor and General Finance Ltd. Vs. Dcit, Spl. Range-16

Motor and General Finance Ltd. Vs. Dcit, Spl. Range-16

SooperKanoon Citation : sooperkanoon.com/72950

Court : Income Tax Appellate Tribunal ITAT Delhi

Decided On : Jan-29-2004

Reported in : (2004)90ITD449(Delhi)

Judge : P Parashar, M Nayar

Appellant : Motor and General Finance Ltd.

Respondent : Dcit, Spl. Range-16

Judgement :

1. This appeal has been filed by the assessee against the order of learned CIT(A) dated 29-8-1995 for A.Y. 1992-93.
2. Shri O.S. Bajpai, Adv. Appeared on behalf of the assessee whereas Shri Amitabh Mishra, CIT(DR) represented the Revenue.
3. The appeal was heard and decided by the Bench vide order dated 9-10-01. Thereafter the assessee moved miscellaneous application being M.A. No. 350/Del/02 for recalling the order of the Tribunal. The M.A. was decided vide order dated 14th February 2003. In view of the order of the Bench and direction contained in para 9 of the order dated 14-2-2003, the order passed in ITA No. 6819/Del/95 has been recalled in relation to ground No. 3 only and therefore we are required to decide ground No. 3, which is as under: "That the disallowance of the claim Under Section 80M is not justified as there was no co-relation between funds borrowed and investments in shares was out of surplus and internal

accruals." 4. We consider it proper to narrate the relevant facts relating to the issue contained in the above referred ground which are as under: 4.1. The assessee had shown receipt of dividend income at Rs. 87,43,921/- and claimed deduction Under Section 80-M of the Income-tax Act, 1961 (hereinafter referred to as the "Act") on this amount. The AO did not allow the claim on the ground that the assessee had not bifurcated the interest portion on the amount used as funds for investment in corresponding shares on which the dividend had been shown. The relevant observations of the AO on this issue are contained in para 6 of the assessment order, which is as under: "6. The assessee has shown dividend received to the tune of Rs. 87,43,921/-. However, the assessee has not bifurcated the interest portion on the amount used as funds for investment in corresponding shares on which the dividend has been shown. The total investment on these shares comes out to Rs. 5,04,19,723/- whereas borrowed funds are Rs. 1,26,17,56,422/-. The total interest charged by the assessee is proportionately bifurcated and interest attributable to these funds is disallowed for the purpose of computing business income but allowed at the same time while computing the income from other sources. The interest attributable to these investments to the tune of Rs. 88,07,103/- is disallowed while computing business income.

This would mean the claim Under Section 80M will not be allowed as there is no positive income left under the head 'Income from other sources' and loss of Rs. 46,182/- will be allowed under the head income from other sources and interest as discussed above Rs. 87,43,921/- is disallowed and added back to the disclosed business income of the assessee." 4.2. Since the AO computed the interest attributable to the funds invested in shares at Rs. 88,07,103/- and disallowed the same Under Section 36(1)(iii) the claim of the assessee Under Section 80M was rejected as there was no positive income left under the relevant head.

4.3. Consequently, the AO also made addition of Rs. 88,43,921/- which was challenged before the learned CIT(A) by the assessee.

4.4. Before the learned first appellate authority, the specific plea of the assessee was that the investment in units/ shares was not made out of the borrowed funds but from the excess/surplus and internal accruals of the assessee. This plea is

incorporated in para 11 of the appellate order which is as under: "1. It was submitted by the AR that the investment in units/shares were made by the assessee not out of the borrowed funds but from the excess/surplus and internal accruals of the assessee of the preceding years. In support of this contention the AR also furnished a chart showing the year-wise details of investment and the net surplus (net profit before Depn.) and urged that as the investment in shares/units were made out of the surplus funds and as per the norms of Reserve Bank of India, there was no justification for the AO to hold that the investments in shares have been made out of borrowed funds and consequently disallow the claim of the assessee Under Section 80-M." 4.5. As revealed out on perusal of para 12, a detailed chart was also filed by the assessee before the learned CIT(A). This chart was sent by the learned CIT(A) to the AO for his examination and comments. The AO submitted report dated 21-7-1995 wherein it was stated that the interest liability had been segregated into two parts and whatever funds out of the borrowed money have been utilized for the purpose of business or profession has been allowed Under Section 36(1)(iii). In his report the AO has also made reference to the decision of Hon'ble Allahabad High Court in the case of CIT v. M.R. Sugar Factory Pvt. Ltd. in support of the disallowance of interest made by him Under Section 36(1)(iii). The relevant portion of the report has also been reproduced by the learned CIT(A) in para 12 of his order which is as under: "In this regard, during the course of assessment proceedings, the issue was discussed with the representative of the assessee in the light of the decision of Hon'ble High Court of Allahabad in the case of CIT v. M.R. Sugar Factory (P) Ltd. (All) where the learned Judges have given a ratio that funds utilized by the assessee for non-business purposes may not have necessarily any nexus with the borrowed funds and observed that if those funds were not utilized for non-business purposes it would have been available to the assessee for its business purposes and to that extent it may not have been necessary to borrow from the banks. Therefore, disallowance Under Section 36(1)(iii) got strengthened from the ratio of this case. However, whatever has been disallowed Under Section 36(1)(iii), the same has been allowed Under Section 57(iii).

Therefore, there is no disallowance out of interest liability disclosed by the assessee. In this way, I don't see to go into the question whether the investment in

share has been made out of the borrowed funds or otherwise as the investment need not have necessarily any nexus with the borrowed funds according to the aforesaid ratio." 4.6. Against the report of the AO the A.R. was confronted. It was submitted that on one hand he AO came to the conclusion that all the borrowed funds were not utilized for the purpose of business but on the other hand he has stated that while making the disallowance on pro rata basis, there need not be any nexus between the borrowed funds and investment in shares. This contention has been incorporated in para 13 of the appellate order which is as under: "13. The findings and observations of the AO in his report were also discussed with the A.R. Referring to the findings and observations of the AO in his report, the A.R. submitted that though the AO had come to the conclusion that all the borrowed funds were not utilized for the purposes of business but in the concluding para of his report he has contradicted his own finding by stating that while making the disallowance on prorata basis, there need not be any nexus between the borrowed funds and investment in shares. He contended that this observation of the AO was not correct. It was well settled that disallowance could only be made if the investment was made out of the borrowed capital. Referring to the chart filed in the course of the appeal hearing, he reiterated that as the investments were made out of the surplus and internal accruals and not out of borrowed funds, there was no justification for the AO to make an apportionment of the interest payment between the business income and the income 'from other sources'." 4.7. After considering the findings of the AO and the plea of the assessee the learned CIT(A) has made following observations in para 14 of his order: "The chart furnished by the A.R. gives the break up of the investment from the financial year 1983-84 upto 1992-93 and also the net profit after tax. It is not disputed that the assessee had a surplus but the fact remains that the assessee had also borrowed funds to the extent of Rs. 1,26,17,56,422/-. There is also no dichotomy between borrowed funds and its utilization either for the purposes of business or for apportionment of the shares/units. There is no intermingling of the funds and the assessee's contention that the entire investment in shares/units were out of the surplus funds will be far from the reality and cannot be accepted. It is also a fact that the entire surplus funds cannot be said to have been used for funding the investments and only the borrowed funds have been utilized for the purposes of business." "Assuming that

the assessee had a surplus, if the same had not been utilized (as claimed by the assessee) for the purpose of investment in shares/units, the same would have been available to the assessee for its business purposes and to that extent it may not have been necessary to borrow funds from the bank and pay heavy interest on them. This even if there was no direct nexus between the borrowed funds and the investment in shares. But in view of the facts of the case, the funds to the extent covered in the investment in shares would have been available. Thus the funds to the extent of Rs. 5,04,19,723/- cannot be taken as for the purposes of business or profession of the assessee. The proportionate interest paid will, therefore, has to be considered Under Section 57(iii) and not under Section 36(1)(iii)." 4.8. Thus, the learned CIT(A) has upheld the action of the AO in not allowing deduction to the assessee Under Section 80M.4.9. The assessee has challenged the order of learned CIT(A) by taking ground No. 3 which has been reproduced above.

5. In support of this ground, the learned counsel for the assessee made detailed submissions. The main contention of the learned counsel was that neither the AO nor the learned CIT(A) have recorded a positive and categorical finding that borrowed funds were not utilized for business purposes by the assessee or that the investment in shares/bonds and units were made only out of the borrowed funds. According to him, the departmental authorities did not consider it proper to establish nexus between borrowed funds and funds invested in the shares and therefore the disallowance of interest Under Section 36 was not justified. The learned counsel explained the position of account of the assessee by making reference to various charts which have been furnished by the assessee with the misc. application and also before the learned CIT(A).

The learned counsel, on the basis of the figures of opening balance, reserve and profits etc. and also on the basis of entry in the balance-sheet as on 31-3-1992 pointed out that the assessee had huge funds for investment in the shares and bonds and therefore the learned CIT(A) was not justified in upholding the action of the AO in rejecting the claim for deduction Under Section 80M. According to him, the ratio in the case of H.R. Sugar Factory (P) Ltd. 187 ITR 363, on which reliance has been placed by the AO as well as by the learned CIT(A), is not applicable to the facts of this case. The learned counsel also distinguished the decision in the

case of CIT v. MGF Ltd. 254 ITR 449 by submitting that in that case the assessee, despite directions by the departmental authorities, could not furnish bank statements to show as to whether the assessee had a credit balance or debit balance on the date on which the loans to the sister concerns were given by it and therefore the decision of the Hon'ble Delhi High Court, which was based on the facts of that case, is not applicable to the present case where relevant information was furnished by the assessee before the learned CIT(A) in the shape of chart about which reference has also been made by him. In support of his arguments, the learned counsel placed specific reliance on the following decisions: (ii) East India Pharmaceutical Works Ltd. v. CIT (1997) 224 ITR 627(SC); (iv) Oil & Natural Gas Corporation Ltd. v. DCIT - Uttranchal High Court Judgment dated 26-6-2003. A copy of the last decision has been filed on record by the learned counsel 6. The learned D.R., on the other hand, supported the order of the learned CIT(A) and submitted that the AO has recorded the findings of fact which were also upheld by the learned CIT(A). He has also placed reliance on the decisions in the cases of CIT v. Motor General Finance Ltd. (2002) 254 ITR 449; and CIT v. Orissa Cement Ltd. (2002) 258 ITR 365. He further submitted that from the charts submitted by the assessee, the position cannot be ascertained.

7. In reply, the learned counsel for the assessee submitted that on perusal of the balance-sheet it is clear that assessee had accumulated balances of past years and the surplus of the earlier years as well as the profits of the current year were available to it for making investments in this year. According to him, when there was a combined overdraft account in which borrowed funds and profits are pumped, the presumption is that the investment is made out of the profits. In support of this submission reliance was placed on the decision in the case of East India Pharmaceutical Works Ltd. (supra) and also on the following decisions: Alkali & Chemical Corporation of India Ltd. v. CIT (1986) 161 ITR 820 (Cal).

8. We have carefully considered the facts and circumstances relating to this matter, the entire matter to which our attention was invited and the rival submissions, including the case laws, to which reference was made at the time of hearing of the appeal. The assessee has claimed deduction Under Section 80M. The deduction is allowable. The provisions as contained in Section 80M are as

under: 80-M. (1) Where the gross total income of a domestic company, in any previous year, includes any income by way of dividends from another domestic company, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of such domestic company, a deduction of an amount equal to so much of the amount of income by way of dividend from another domestic company as does not exceed the amount of dividend distributed by the first mentioned domestic company on or before the due date 8.1. The assessee had also received dividend income at Rs. 87,43,921/-.

It claimed deduction of that amount. The case of the assessee before the departmental authorities was that it had made investment in the shares and bonds out of the surplus/profits of earlier years and deposits, accruals and profits of the current year. In support of this version, the assessee had submitted charts before the learned CIT(A).

The learned counsel has also placed much reliance on the position of accounts as reflected in these charts, copies of which have been placed on record. For proper scrutiny of the issue, we consider it proper to reproduce some of these charts as below: MGF Services Ltd. 1000000 Telco Dealers Leasing & Fin Co. Ltd. 500000 Fairgrowth Investment Ltd. 1000000 Unit Trust of India 22500 Unit Trust of India 4419000 Unit Trust of India 8950 Unit Trust of India 1350000 Unit Trust of India 1885000 ----- Note:- S.No. 2 is paid from Bombay office Current A/c with Bank of India having credit balance. In fact, even disallowance of Rs. 219/- is not called for.

Sl. No. 3 is paid out of current account with Bank of India, Asaf Ali Road, Delhi having credit balance.

Sl.No. 5 is received out of credit balance in vehicle purchase Advance Account with MGF (India) Ltd. The final position as on 31-3-1992 profit, investment in securities, free reserve and depreciation etc. has also been shown in the following chart: 8.2. In view of the charts and particularly in view of the position shown in chart III, reproduced above, it is clear that the assessee had made investment of Rs. 10,00,000/- on 9-3-1992. On that date the opening debit balance was Rs. 4,20,11,878/- but closing debit balance had reduced to Rs. 3,93,68,132/- as on 9-

3-1992. Thus, no part of over draft had been utilized for making investment of Rs. 10,00,000/-.

Similar is the position with respect to investment of Rs. 5,00,000/- made on 18-9-1991. The opening debit balance was reduced from Rs. 2,55,24,895/- to Rs. 1,60,38,356/- as on 19-9-1992. Similar is the position in respect of other amounts invested by the assessee.

8.3. From the chart no. II also it is clear that as on 31-3-1992 the assessee had profit _ before tax at Rs. 6,73,66,197/- and profit after tax was at Rs. 6,73,66,197/-. The assessee also had reserve of Rs. 2,26,23,180/- and against these amounts the total investment in securities was only at Rs. 1,51,63,451/-. Although the total investment in shares and bonds was at Rs. 1,51,63,450/- but this amount included a sum of Rs. 49,80,000/- which related to investment in Central Government Bonds 1994 on which amount no dividend was claimed Under Section 80M. Thus, the total investment relating to dividend income was only at Rs. 1,01,83,450/-, details of which have been given in Chart No. I.8.4. In view of these charts it is clear that as on 31-3-1992 the assessee had profit after tax at Rs. 6,73,66,197/- and free reserve at Rs. 22,62,31,180 and also depreciation at Rs. 9,87,59,012/- against investment in securities at Rs. 1,01,83,450/-.

8.5. In view of the above financial position the contention of the assessee tha the investment in securities was made out of the surplus/profits/accruals and free reserve and not out of the borrowed funds, carries force. In the balance-sheet also the assessee has shown the secured loans as the balance-sheet as on 31-3-1992 which is printed in the 62 annual report the position of secured loans in previous year has been shown at Rs. 39,45,09,443/- and against this figure, the position of secured loans in the current year has been shown at Rs. 43,93,13,491/-. So far as unsecured loans are concerned, in previous year he same were at Rs. 72,19,17,912/- and in this year at Rs. 82,24,42,931/-.Source of funds Schedules Rs. Rs.Shareholders' funds: Capital 1 10,00,00,000 10,00,00,000 Reserves and surplus 2 22,62,31,180 17,88,64,983 ----- Secured Loans 43,93,13,491 39,45,09,443 Unsecured Loans 82,24,42,931 72,19,17,912 1,26,17,56,422 111,64,27,355Depreciation: 9,87,59,012 7,66,11,422Profit

Available for Appropriation: 7,53,74,196 5,09,35,912 8.6. It may be pointed out that the AO proceeded to reject the claim of the assessee for deduction Under Section 80M simply by observing that the assessee had not bifurcated the interest portion on the amount used as funds for investment in the corresponding shares on which dividend had been claimed. On this basis he has concluded that since total investment in the shares was at Rs. 5,04,19,723/- and whereas borrowed funds were at Rs. 1,26,17,56,422/- the proportionate interest has to be attributed to the funds. This approach cannot be justified, particularly because the AO has not recorded any positive finding that any part of the borrowed funds was invested by the assessee in purchasing the shares and bonds etc. He has also not established any nexus between the borrowed funds and the funds invested. The AO did not issue any notice to assessee to show cause as to why the investment in funds should not be treated to be out of borrowed funds. Since the AO did not call any explanation from the assessee, the assessee was not required to show that no part of the borrowed funds was invested for purchasing the shares and bonds etc. It may be pointed out that the assessee did not claim deduction Under Section 36(1)(iii).

8.7. Coming to the stage of learned CIT(A) the assessee had submitted a detailed chart as observed by him. On this chart comments of AO were also obtained, but neither the AO nor the learned CIT(A) could point out any mistake in the chart or in the figures shown in the chart. As observed earlier, before the learned CIT(A) the assessee took specific pleas which have been reproduced above. In view of these pleas, the clear and categorical stand of the assessee was that it had huge funds for making investment in the purchase of shares and bonds. This stand has not been properly examined nor rejected. The learned CIT(A) has gone to the extent of observing that assuming that the assessee had surplus which was used for investment in shares, the same would have been available to the assessee for its business purposes and to that extent it may not have been necessary to borrow funds from bank and pay heavy interest on the amount. On perusal of the order of AO and that of learned CIT(A) it is found that these authorities have placed reliance on the decision in the case of H.R. Sugar Factory (P) Ltd., without considering the facts of this case. The application of the ratio of that decision to the facts of this case shall be discussed later.

However, it may be pointed out that it was not a case where it was established that borrowed funds or any part of borrowed funds was diverted for non-business purposes and claim was made for deduction of interest Under Section 36.

9. In the setting of the above factual position, we proceed to discuss the relevant case law on the issue.

9.1. The issue relating to allowability of deduction on account of interest paid by the assessee Under Section 36(1)(iii) has been considered by various courts under the old Act of 1922. In the case of *Amna Bai Hajee Issa v. CIT* 51 ITR 835 it was held by the Hon'ble Madras High Court that for deciding the claim for interest on borrowing, the fact that the assessee had ample reserves at its disposal and need not have borrowed, is not a relevant matter for consideration. According to the Hon'ble Court, the matter is to be decided is as to whether the amount of interest paid was, in fact, in respect of capital borrowed for the purpose of business.

9.2. In the case of *Rama Krishna Oil Mills v. CIT* 56 ITR 186 the Hon'ble Madhya Pradesh High Court has held that the only conditions required for allowing the claim for deduction in respect of interest Under Section 10(2)(iii) are - firstly, that money must have been borrowed by the assessee; secondly, it must have been borrowed for the purpose business; and thirdly, the assessee must have paid interest on the said amount and claimed it as a deduction.

9.3. In the case of *Bombay Samachar* 74 ITR 723 the Hon'ble Bombay High Court has also considered the issue and made following observations: "In our opinion the view taken by the Tribunal is correct and must be upheld. For the facts which have been already stated, it will be clear that the balance due from the Bombay, Chronicle Pvt. Ltd. was not in respect of any loans advanced by the assessee to it., as considered by the Income-tax Officer and the Appellate Assistant Commissioner. The said balance was in respect of the common account between the parties in connection with the expenditure in relation to the business agreed to be incurred in common and allocated in shares at the end of the year. Similarly the amount due from Messrs.

Cama Norton & Co., in the calendar year 1954, did not constitute any loan advanced by the assessee to Messrs Cama Norton & Co., but constituted the out standings in connection with certain business transactions. The capital borrowed by the assessee from outsiders on the other hand was admittedly used by the assessee for the purpose of the business and it was also undisputed that no part of the borrowed capital had been utilized for the purpose of advancing loans either to Messrs. Bombay Chronicle Pvt. Ltd. or to Messrs.

Cama Norton & co. In these circumstances, it is difficult to see how the assessee's claim for the interest actually paid by it could be disallowed." 9.4. The Hon'ble Supreme Court in the case of Madhay Prasad Jatia v.CIT 118 ITR 200 has considered the issue relating to necessary conditions for allowing the claim for deduction Under Section 10(2)(iii) and Section 10(2)(xv) of the Act. In that case the Hon'ble Court has held as under: "Proceedings to consider the claim for deduction made by the assessee Under Section 10(2)(iii) or Section 10(2)(xv), we may point out that Under Section 10(2)(iii) three conditions are required to be satisfied in order to enable the assessee to claim deduction in respect of interest on borrowed capital, namely, (a) that money (capital) must have been borrowed by the assessee,(b) that it must have been borrowed for the purpose of business. And (c) that the assessee must have paid interest on t he said amount and claimed it as a deduction." 9.5. The issue has been considered again by the Hon'ble Supreme Court in the case of East India Pharmaceutical Works Ltd. v. CIT (1997) 224 ITR 627. In that case the assessee had paid certain amount of advance tax out of its over draft account and claimed the interest paid on such amount as business expenditure Under Section 37. The claim was rejected on the ground that the amount of income-tax paid was not an expenditure laid out for the purpose of business. The assessee remained unsuccessful up to the stage of High Court. On appeal before the Apex Court, it was contended that the assessee having deposited the entire profits in the over-draft account and the amount thus deposited being much more than the income-tax liability and the tax paid, it should have been presumed tha the taxes were paid out of profits of the relevant year and not out of the over draft account for running of the business. The assessee also produced the schedule appended to the assessment order to indicate that the amount of receipts deposited in the over draft account was much more than the

tax paid. The Hon'ble Supreme Court has made the following observations: "That although there was considerable force in the appellant's contention, the question whether a presumption could be drawn that the taxes were paid out of the profits of the relevant year and not out of the overdraft account for the running of the business, would essentially depend up to whether the entire profits had been pumped into the overdraft account, whether such profits were more than the tax amount paid for the relevant year and other germane factors.

Sine the appellant had not advanced the contention either before the Tribunal or the High Court, and the amplitude of the question posed before the High Court did not bring within its sweep the contention advanced by the appellant, it would not be appropriate for the court to look into the additional papers produced by the appellant for answering the question." 9.6 It may be pointed out that the Apex Court had upheld the contention of the assessee, though the same was not entertained on the ground that it was not taken before the Tribunal and the High Court. However, it clearly shows that such contention would have been allowed, had it been raised before the Tribunal and the High Court.

9.7. In the case of CIT v. CIT v. Tingri Tea Co. 79 ITR 294 the claim of the assessee was rejected on the ground that over draft from the bank were not incurred wholly and exclusively for the purpose of business of the assessee. The AAC also found that the company had made remittances to U.K. by taking overdrafts from the banks in India and the borrowings from the banks in India were partly invested in earning interest income in U.K. The Tribunal was of the opinion that correct way to interpret the transaction would be that the remittances to the U.K. came out of profits in India and the Bank overdrafts in India had, in fact, been utilized in carrying on the overseas business and thus Income-tax Authorities were not justified in disallowing any part of bank interest paid by the assessee in India on its bank overdrafts. It was held by the Hon'ble Calcutta High Court that the inference of the Tribunal that remittances to the U.K. came out of profits earned in India and the Bank overdrafts in India had in fact been utilized in carrying on assessee's business was sustainable in law and on such inference of findings of fact, the Tribunal was right in holding that the income-tax authorities were not justified in disallowing any part of bank's interest on the overdrafts.

9.8 The Hon'ble Calcutta High Court again considered the issue in the case of Woolcombers of India Ltd. v. CIT (1982) 134 ITR 219 (Cal.). In that case the assessee had over draft account with a Bank and few days before the end of the accounting year the account showed debit balance of Rs. 1,39,412/-. The assessee paid advance tax of Rs. 18,05,000/- on 15-12-1969 which increased the over draft to Rs. 14,63,593/- by December 31, 1969. the ITO held tha the payment of advance tax was not a business expenditure and disallowed the proportionate interest amounting to Rs. 6,769/- payable by the assessee to the bank. On appeal the AAC held that though the profits of the business were embedded in the combined financial transactions, yet at the time of payment of advance tax the assessee had no adequate cash surplus and it had restored to the overdraft facility specifically for the purpose of payment of advance tax and thus on this basis the AAC affirmed the order of ITO. On further appeal, the Tribunal affirmed the order of AAC. On reference, in was cont ended on behalf of the assessee before the Hon'ble High Court that where the profits of the assessee's business was sufficient to cover the payment of advance tax during the relevant accounting year, if such amount was paid from an amount which included the amount of profits as well as the overdraft taken for the purpose of the business, the presumption was that the tax was paid out of the profits and not out of the overdraft account and sine the amount of the profits for the relevant year far exceeded the liability for advance tax and the entire amount of profits of Rs. 27 lakhs was deposited in the overdraft account of which the bank remitted the advance tax, the tax was paid out of the earning of the profits and not out of the overdraft account taken for other business purposes. The Hon'ble High Court after following its decision in the case of CIT v.Tingri Tea Co. Ltd. 79 ITR 294 as also the decision of Hon'ble Supreme Court in the case of Madhav Prasad Jatia v. CIT 118 ITR 200, held as under: "That, on the facts of the case, the profits were sufficient to meet the advance tax liability. The entire profits were deposited in the overdraft account. It should be presumed that in its essence and true character the taxes were paid out of the profits of the relevant year and not out of the overdraft account for the running of the business. Therefore, the interest amounting to Rs. 6,769/- paid by the assessee on the bank overdraft account which was disallowed as being relatable to payment of advance tax should also have been allowed as an admissible deduction in the computation

of the assessee's business income." 9.9 Similar view was taken by the Hon'ble Calcutta High court in the case of Indian Explosives Ltd. v. CIT (1984) 147 ITR 392 (Cal.), wherein it was held that interest paid by the assessee on the over draft account, maintained with bank for purposes of business, wherein all receipts deposited and all payments, including taxes, made, entire interest was allowable deduction.

9.6. The issue was also considered by the Hon'ble Madhya Pradesh High Court in the case of D&H Secheron Electrodes Pvt. Ltd. v. CIT 142 ITR 528 and thereafter in the case of CIT v. Hotel Savera 239 ITR 795. In the latter case the Tribunal had found that the total amount in the partners' capital and current account was greater than the amount advanced to the private company. It was also found that the amount borrowed by the firm was mixed up with its own funds. Under these circumstances the Tribunal had raised presumption that the amount had been advanced by the assessee from its own funds and on the basis of this presumption, the Tribunal allowed the entire amount of interest on borrowed capital. The finding of the Tribunal that no part of interest should be disallowed especially in absence of any findings that the borrowed money was advanced to the private limited company free of interest, was upheld by the Hon'ble M.P. High Court. In taking this view the Hon'ble M.P. High Court had also followed the decision of Hon'ble Gujarat High Court in the case of Shree Digvijay Cement Co.

Ltd. v. CIT (1982) 138 ITR 45.

9.10. The issue was also considered by the Hon'ble Delhi High Court in the case of Regal Theatre (supra). In that case the assessee firm which was carrying on business of cinema theatre and was also running a restaurant, claimed deduction Under Section 36(1)(iii) of the Act. The claim was disallowed by the AO as well as the CIT(A) and was also confirmed by the ITAT. The Hon'ble Delhi High Court, however, reversed the view of the Tribunal by observing as under: "Held, tha the finding arrived at by the Tribunal that a part of the borrowings had been diverted by the assessee to its non-business purposes was not a finding of fact, but was an inference drawn by the Tribunal on the basis that the interest paid on the capital borrowed was not in law an allowable deduction from the profit, in case the profit

minus depreciation was not in excess of the withdrawals made by the partners and in such a case, the withdrawals should be deemed to be in part from the capital account and would mean that the original borrowings were utilized for other purposes and not for business purposes. The Tribunal ignored the law laid down by the Supreme Court in *Madhav Prasad Jatia v. CIT* (1979) 118 ITR 200 and the Bombay High Court in *CIT v. Bombay Samachar Limited*, (1969) 74 ITR 723 that one the three conditions laid down in Section 36(1)(iii) were satisfied, the deduction under the section must be given. Again the contention that the correct amount of debit balance to the account of the partners should be taken on Rs. 1,73,643/- instead of Rs. 1,93,049/- as calculated by the Income-tax Officer was again a figure arrived at as a matter of law. Therefore, the Tribunal was not correct in holding that a part of the borrowings had been diverted by the assessee for its non non-business purposes and that the assessee was not entitled to claim deduction of the interest on those borrowings under Section 36(1)(iii) of the Act."

9.11 In the next case i.e. *CIT v. Sahni Silk Mills Pvt. Ltd.* 253 ITR 294 (Del.) also a similar view was taken. In the case of *CIT v. Dalmia Cement (B) Ltd.* 254 ITR 202 (Del.), the AO had made a reduction in the allowance of interest on the basis that the deposits had been collected by the sole selling agent towards disputed sales tax and the deposits had been allowed by the assessee to be retained by the sole selling agent. The CIT(A) allowed the claim for deduction of interest in full in view of the admitted position that the sole selling agent was handling sales tax returns when were filed by it and sales tax assessments were made on it and the deposits collected were either to be refunded to the customers or paid to the government. The Tribunal affirmed the decision of the CIT(A). On a reference, the Hon'ble High Court affirmed the decision of ITA T and held that if all the requisite conditions in Section 36(1)(iii) for allowance of interest were fulfilled, it was not possible and open for the Revenue to make a part of disallowance, unless there was a positive finding recorded that a part of the amount borrowed was not used for the purpose of assessee's business.

9.12 The Ahmedabad Bench of the ITAT has also considered the issue in the case of *Torrent Financiers v. ACIT* (2001) 73 TTJ 624. This Bench has also considered the case of *H.R. Sugar Factory (P) Ltd.* (supra) and has observed as under: "10. We have heard the representatives of both the parties. Perused the records and

gone through the cases referred/cited by both the parties. Under the facts and circumstances, the Id. CIT(A) has found that borrowed funds have been diverted partly for non-business purposes, therefore, the Assessing Officer was justified in making disallowance. It has been further found by CIT(A) that in view of the fact that the assessee was also having interest free loans, the disallowance made by the Assessing Officer cannot be sustained in totality. Therefore, it was concluded by Id. CIT(A) that interest has to be disallowed only in respect of amount representing the difference between the interest free advances made by assessee and interest free funds available to the assessee and accordingly amount was calculated and the disallowance was restricted to Rs. 1,38,492/-. We uphold the above view of CIT(A) with an exception about the interest free loans available with the assessee is to be considered, with this modification, the finding of Id. CIT(A) is confirmed. The entire interest-free funds include owner's own capital, accumulated profits and other interest free creditors and loans, if total interest free advances including debit balances of partners do not exceed the total interest free utilization of funds for non-business purposes and if it exceeds, the proportionate disallowance can be made." 9.13. The Hon'ble Kerala High Court has also taken similar view in the case of Dr. K. Thomas Varghese v. CIT (1986) 161. ITR 21 (Ker.).

9.14. So far as the latest decision in the case of CIT v. Tin Box Co.

260 ITR 637 (Del.) is concerned, in that case a registered firm was engaged in the business of manufacture and sale of tin containers and printers. This firm was advancing interest free loans to its sister concern, namely, P, since the assessment year 1984-85. At the same time it had been availing of overdraft loan facilities from the State Bank of India against hypothecation of stocks etc., and was also paying interest to the bank. The AO disallowed a sum of Rs. 3 lakhs out of the total interest paid by the assessee to the State Bank of India in its overdraft account. The Tribunal found that the assessee had substantial capital and interest-free funds available with it, not only in the preceding years but also in the years under consideration, which far exceeded the interest-free advances to the sister concern. On this basis, it deleted the disallowance. The relevant observations of the Tribunal are as under: "We are in agreement with the submissions made by

learned counsel for the appellant because the factual position as submitted before us by learned counsel for the appellant has not been controverted by the learned Departmental Representative. The admitted facts are that the appellant firm has been enjoying overdraft facilities from the State Bank of India, Chandni Chowk, Delhi, since long time past against the hypothecation of goods, etc., and pledge of land, building, -plant and machinery and the interest paid on such overdraft account has been allowed by the Revenue year after year.

Even in the assessment year 1982-83, no such disallowance had been made when admittedly substantial interest-free funds had been advanced to the sister concern. The appellant has not paid any interest to any other party either in the past or during the year under appeal. Further in the years under appeal, either the fresh advances to PNSMPL have been quite insignificant or there have been absolutely no fresh advances made by the appellant, rather during the assessment year 1990-91 to 1992-93 the appellant had received back from the sister concern more than Rs. 10 lakhs. The capital of the firm and interest free unsecured loans with the appellant far exceed the amounts advanced to the sister concern in all the years under appeal a fact neither controverted nor disproved by the learned Departmental Representative also." (underlined for emphasis)." 9.15. The Hon'ble High Court upheld the view taken by the Tribunal by observing as under: "Held, dismissing the appeal, that the Tribunal had found that the capital of the firm and interest free unsecured loans with the appellant far exceeded the amounts advanced to the sister concern in all the years under appeal. Additionally the Tribunal has also noted that the Department could not point out any specific interest bearing borrowed funds, which had been diverted by the assessee to its sister concern. The findings of the Tribunal being based on the relevant evidence on record, no question of law much less a substantial question of law, arose from the orders of the Tribunal." 9.16. The Hon'ble Uttranchal High Court has also considered the matter in W.P. No. 806(M/B) of 2002 in the case of Oil & Natural Gas Corporation Ltd. v. DCIT and Ors. vide order dated 26-6-03. In the case also the AO made disallowance of 10% of the tax free interest earned on bonds on the ground that it related to the expenditure incurred by the petitioner in earning the said interest. The petitioner's appeal was decided in its favour by the CIT(A) and also by the Tribunal. The case of the petitioner was that it had huge capital reserve

and profit out of which it made the investment in tax free bonds and no part of the borrowed funds was utilized in the said investments. It was submitted that the interest on the said bonds was fully exempt from tax. The AO in making the assessment for the relevant years was of the view that as the income from bonds was exempt, the corresponding expenditure was disallowable as no separate accounts were maintained by the assessee hence 10% of such interest was considered fair and reasonable as allocable to such interest. While reopening the assessment, the case of the Department was that assessee had not made truthful disclosure of its income in as much it had paid interest on borrowings on one hand and on the other hand investments were made to earn tax free income from bonds.

9.17. The Hon'ble High Court considered the details of cash, profits, free reserves and investments in PSU bonds. In this regard, reference was also made to the decision of Hon'ble Madras High Court in the case of CIT v. Hotel Savera 239 ITR 795; and that of Hon'ble Gujarat High Court in the case of Shree Digvijay Cement Company Limited v. CIT 238 ITR 45.

9.18. The ITAT has also considered the issue in the case of Pramod S. Talwalkar (HUF) (2000) 75 ITD 492 (Pune). In this case also the AO rejected the explanation of the assessee that all the receipts by way of interest free advances from the flat purchasers and loans from the unsecured creditors were deposited in the same account and it was out of such amount that the interest free advances were given to sister concerns and therefore it could not be said that the advances were given out of borrowed amounts bearing interest. The CIT(A) upheld the approach of the AO. But on second appeal, the Tribunal found considerable force in the submissions raised on behalf of the assessee.

After making reference to the decision of Hon'ble Calcutta High Court in the case of Woolcombers of India Ltd. (supra) and the order of the Tribunal in the case of Duramtallic (India) Ltd. v. IAG 38 ITD 211 (Mad.) and also to the judgment of the Hon'ble Supreme Court in the case of East India Pharmaceutical Works Ltd. (supra), the Tribunal held that the assessee would be entitled to deduction. However, it directed the matter to be restored to the file of AO as under: "therefore,

the assessee would be entitled to deduction. However, the question whether payment to sister concerns were made out of profits of business and interest-free receipts by way of unsecured loans or advances from flat purchasers could be decided only after investigation of facts by looking into the details of the overdraft account. Accordingly, the order of Commissioner (Appeals) was to be set aside and the matter was to be restored to the file of the Assessing Officer with a direction to allow the claim of the assessee if it was established that payments to the sister concerns were made out of business profits and interest-free receipts deposited in the overdraft account." 9.19 In the case of Meenaxi Synthetics (P) Ltd. v. ACIT 84 ITD 563, the Lucknow Bench of the ITAT has considered the issue and after considering various judgments it is held that charging of interest on loans given by the assessee cannot by itself, be a sufficient ground for disallowing the interest paid by the assessee on the loans taken by it in absence of any nexus having been brought on record between the borrowed capital and interest free advances or in absence of any finding that borrowed funds or part thereof, was diverted towards interest free advances made by the assessee.

9.20 The other important case in which the issue was considered by the Hon'ble Allahabad High Court was that of CIT v. H.R. Sugar Factory Pvt.

Ltd. 187 ITR 363. In that case, the assessee, a private limited company, which carried business of manufacturing of sugar, had advanced huge amount of loan to its Directors at the rate of 5% per annum whereas it was paying interest at the rate of 8% per annum on the moneys borrowed by it from Banks. In the previous year relevant to Assessment year 1963-64, the interest payable by the Directors on the amount borrowed by them from the assessee was reduced to 2.5% in pursuance of a compromise decree of Civil Court. The Bank continued to charge interest @ 8% on the loans advanced to the assessee. The ITO as well as the First Appellate Authority held that the difference between the interest paid to the Bank and interest recovered from the Directors on the loans advances to them could not be said to have been incurred on the capital borrowed for purposes of business and disallowed the difference between the interest paid to the Bank and interest recovered from the Directors. The Tribunal, however, deleted the disallowance. On reference, the disallowance of interest was upheld by the Hon'ble High Court by

observing as under: "Held, that the assessee was not a finance company. It was engaged in the manufacture of sugar. No business purpose was served by the advances to its directors. The amount of interest payable in each year on account of the loans to the directors was very large and this fact could not be glossed over by saying that the amount was not substantial in each of the relevant years. The company might have borrowed large amounts for the purpose of its' business every year but that did not explain the huge advances to the directors/shareholders. Had this money been not advanced to the directors, it would have been available to the assessee for its business purposes and to that extent it might not have been necessary to borrow from the bank. Therefore, the Income-tax Officer was right in disallowing the difference between interest paid to the banks and interest recovered from the directors under Section 36(1)(iii) of the Income Tax Act, 1961." 9.21 It may be pointed out that in the case of H.R. Sugar Factory Pvt.

Ltd. (supra), there was a director nexus between the borrowed funds and the funds advanced at a very low rate to its directors. After examining the scheme and device adopted by the assessee and also the volume of advances made by it and rate of interest charged from directors, it was found that the amount of interest paid each year payable on account of the loans to Directors, was substantial and by the compromise decree, the limit of amounts to be lent to the Directors was further raised and at the same time the rate of interest was also drastically reduced. The Hon'ble High Court also observed that in view of these facts, it is clear that the Directors/share holders were taking unfair advantage of their control over the assessee and they were exploiting it for their private ends. It was also held that what has happened in this case was self-evident i.e. the assessee was made to pay huge amounts by way of interest on account of heavy amounts advanced to its Directors bearing no relation whatsoever with the business purpose of the assessee.

9.22. It may also be pointed out that in the case of H.R. Sugar Factory, it was not the case of the assessee that it had other funds with it, which were interest free or it had advanced loans to the Directors, which were not out of the borrowed funds. Thus, there was clear-cut nexus between the borrowed funds and funds advanced

to the Directors on which lesser rate of interest was charged. The present case is, therefore, distinguishable on facts, inasmuch as in this case the specific plea of the assessee was that interest bearing funds were utilized for business purposes and advances without charging interest were made out of interest free amount available with it." 9.23. Thus it may be pointed out that the facts in the case of H.R.Sugar Pvt. Ltd. (supra), were totally different as in that case direct nexus was found to have been established between the borrowed funds and the advances made free of interest by the assessee and there was a categorical finding by the AO that a part of the borrowed funds was diverted towards interest free advances and for non-business purpose.

So far as the present case is concerned, no such categorical findings have been recorded by the AO or by the learned CIT(A). In the case of H.R. Sugar Pvt. Ltd. (supra), it was not the case of the assessee that it had profits or other income or interest free amount as is the case of the present assessee who has come with a clear and positive assertion that it had huge profits, balances, reserve etc., for meeting out the expenses in relation to purchases of bonds etc. Thus, the ratio in the case of H.R. Sugar Factory Pvt. Ltd., can not be applied to the facts of the present case 9.24. The other decision on which heavy reliance has been placed by the learned D.R. is in the case of the assessee itself i.e. CIT v. Motor general Finance Ltd. (supra). In that case the facts were that the assessee had borrowed huge sums on interest and had given interest free loans of more than Rs. 47 lakhs to its sister concerns. The interest free loans were in addition to Rs. 154.40 lakhs given to the sister concern earlier. The AO disallowed interest liability of the assessee by Rs. 10 lakhs and also levied interest Under Section 234B. On appeal, the CIT(A) remanded the matter to AO to collect details of cash flow in order to examine whether the loan of over Rs. 47 lakhs was given out of borrowed funds or out of profits earned during the year. The assessee was asked to furnish bank statements showing as to whether the assessee had a credit balance or a debit balance on the dates on which the loans to the sister concern were given by the assessee, but the assessee did not furnish any information. The AO drew an adverse inference against the assessee and held that the loans taken by the assessee were utilized for giving the advances to its sister concern.

The CIT(A) affirmed the order of the AO. The ITAT allowed the assessee's appeal. On appeal the Hon'ble High Court has held that: " since the assessee. despite several opportunities granted, did not produce the relevant documents, an adverse inference had to be drawn against the assessee (emphasis supplied by us). As the assessee could not produce any document, an adverse inference in terms of Section 114 of the Evidence Act, 1872, had to be drawn to the effect that, had those documents been produced, they would have gone against the interest of the assessee." 9.25 In view of these facts, the Hon'ble High Court had decided the issue against the assessee. At this stage it may be mentioned that the present case is totally distinguishable because in this case the assessee had adduced sufficient material and also submitted detailed chart, as observed by the learned CIT(A), to demonstrate that it had huge funds for making investment in share etc.

9.26. It may be pointed out that in the case of assessee itself the issue has been considered in various assessment years. For A.Y. 1982-83 the ITAT vide order dated March 1989 rendered in ITA No. 804/Del/86, copy available on record, decided the issue in favour of the assessee by observing as under: "13. We have considered the rival submissions as also the decisions referred to above. The IAC was unduly influenced by the fact tha the increase in the overdraft of Rs. 1.25 crores would have been lower by Rs. 27,00,860/- if there was no increase in the advance to M/s National Air Products Ltd. However, the decision of the Bombay High Court in the case of Bombay Samachar (supra) was to the fact that interest on overdraft could not be disallowed on the ground that at the time of borrowing, the assessee had sufficient amount of its own or the assessee had ample refunds at its disposal and had no need to borrow any funds. Similarly in the case of Wool Comber of India Ltd. (supra) where the assessee had an overdraft arrangement with its bankers the receipts of the business were being deposited in the same bank account and disbursement including advance tax liability were made through that account. It was held that there was no co-relation between the disallowance of interest on the overdraft in a proportion to the advance tax liability met through that account.

It was also held tha the taxes were paid out of profits which constituted a part of that bank account. The position in the case of Rockitt Coleman of India Ltd.

(supra) was also similar. So also was the position in the case of Indian Explosives Ltd., and Dr. K.T. Varghese. In the case of Bishamber Dayal Badri Prasad (supra) a partner of the assessee firm had withdrawn certain sums from the firm for personal use and his account showed debit balance. It was held that in view of the facts that non-interest bearing funds of assessee were more than interest bearing loans and that there was nothing to show that these interest bearing loans were withdrawn by the said partners, no part of the interest claimed by the assessee should have been disallowed. Accordingly on facts, even if the onus were on the assessee, it could not be said that there was such nexus as was presumed by the IAC(Assessments). The fact that no disallowances were made in the earlier orders, is also relevant.

Therefore, we find no force in this ground of appeal either." 9.27 In the case of MGF (I) Ltd. for A.Y. 1992-93, ground no. 2 raised before the Tribunal being ITA No. 6818/Del/95 was as under: "2. That the learned CIT(A) erred in rejecting the claim Under Section 80-M ignoring the facts on record that the Investments in units/shares were not made out of borrowed funds and the report of the Assessing Officer that borrowed funds to the extent of Rs. 2,26,46,621/- were invested in shares with a view to earn Dividend Income is not correct." 9.28. The Tribunal vide order dated 20-12-2000 has decided this ground, by following the orders in the case of that assessee for subsequent assessment years i.e. 1993-94, 95-96 and 1996-97 and allowed the ground in favour of the assessee by observing as under: "13. We have heard the rival submissions and have gone through the relevant material available on record as well as the case laws cited before us including the latest judgment of ITAT in the assessee's own case for the assessment years 1993-94, 1995-96 and 1996-97 as well as reference application filed by the department before the High Court and also the chart showing profits and available surplus.

We find that every year there is a huge profit in excess of investment in specified securities Therefore, on facts it is quite clear that no borrowed funds are utilized in making investments in purchasing securities. In such a situation there is no question of bifurcating interest. Accordingly the ground of appeal raised by the assessee is allowed." 10. On the basis of the propositions and ratio laid down in

the above referred decisions, following postulates can be culled out and laid down: (a) If the assessee claims any deduction on account of interest paid on borrowed funds or claims any other deduction, then the initial burden is upon the assessee to show that borrowed funds were utilized for business purposes and thus the assessee is required to substantiate its claim; (b) If the assessee discharges the primary onus, then for disallowing its claim, the burden shifts to department which is required to establish the nexus between the borrowed funds and funds advanced free of interest or funds invested for non-business purposes, for example funds invested in shares and bonds etc.; (c) If despite directions of the department, the assessee fails to furnish any material to substantiate its claim for deduction, then adverse inference can be drawn against the assessee, as held in the case of CIT v. Motor General Finance Ltd. 254 ITR 449; (d) If the assessee has borrowed funds and also interest free deposits and profits etc., and keeps the same in the mixed or common account, then no presumption can be drawn that the interest free advances or investments made by the assessee were only out of borrowed funds. On the other hand, if entire profits are deposited by the assessee into the overdraft account and if such profits, surplus or reserves etc., are found to be far in excess then the amount invested in shares and bonds, the presumption has to be drawn that the investments in shares and bonds etc., were not out of borrowed funds but from such profits and surplus etc., unless contrary is established.

(e) Facts of each case and each assessment year and the relevant accounts of the assessee are to be thoroughly examined for allowing or disallowing the claim for deduction and no general presumption can be drawn in absence of specific findings recorded by the AO or the CIT(A).

11. In view of the factual position and the background of the instant matter and in view of the legal prepositions as culled out from the judicial pronouncements referred to above, we are unable to uphold the stand taken by the Id. CIT(A) for rejecting the claim of the assessee for deduction Under Section 80M of I.T.Act. We do so on the following grounds also: (i) The assessee had a mixed account of overdraft and other deposits wherein it deposited the profits and other accruals and out of which it also made investments for purchasing shares and bonds on

which dividend was shown. The specific claim of the assessee was that the investment in shares or bonds was made out of huge funds available to it in the shape of profits of earlier years and profits of current year before depreciation and reserve etc., and not out of borrowed funds. To demonstrate it, assessee even filed charts before CIT(A) which contained details of year-wise profits and details of reserve as well as details of funds invested in securities. Thus the assessee had discharged the burden which was cast upon it.

(ii) The AO as well as learned CIT(A) were not justified in presuming that investment in shares and bonds was made out of borrowed funds merely on the ground that the assessee had not bifurcated interest paid on the borrowed amount used for business purposes and the amount invested in shares etc.

(iii) Neither the AO, nor the learned CIT(A) disputed the facts and figures given in the chart by the assessee nor found such figures to be incorrect, nor asked the assessee to furnish further details to substantiate the claim for deduction Under Section 80M. Thus the assertion of the assessee remained unrebutted and undisputed.

(iv) The department has not established any nexus between the borrowed funds and the funds invested in shares and bonds etc.

Neither the AO nor the learned CIT(A) recorded a positive and categorical finding that borrowed funds or any part thereof was used or invested by the assessee in the purchase of shares and bonds on which dividend was claimed.

(v) The learned CIT(A) has recorded self contradictory and inconsistent findings. On one hand he observes that 'it is not disputed that the assessee had surplus and also net profits' and then observes that 'the surplus funds can not be said to have been used for financing investment'. He also makes observation that "even if there was no nexus between the borrowed funds and investments in shares", but to the extent funds covered in the investments would have been available, and therefore proportionate interest has to be considered Under Section 57(iii) and not Under Section 36(10(iii)).

Such approach is neither justified on facts of the case nor in law.

(vi) The learned CIT(A) has ignored the relevant facts and details and did not examine the issue properly in the context of the chart submitted by the assessee before him and wrongly supported the action of the AO without rejecting the specific version of the assessee and without establishing nexus between borrowed funds and funds invested in shares and bonds. Such approach cannot be justified.

12. In view of the above, the order of learned CIT(A) cannot be supported. We, therefore, set aside the same. Since the department has not investigated and examined the issue properly with reference to the specific claim of the assessee and the material supplied by it, in support of the same, in the interest of justice we therefore, consider it proper to restore the matter to the AO for proper adjudication. We direct that the AO shall examine and verify the facts and figures given by the assessee in chart II and III reproduced in para 8.1 of this order and if it is found that the assessee had enough funds in the shape of profits of the earlier years and profits of the current year, accruals, surplus and reserve etc., far in excess of the amount invested in shares and bonds, as per their charts, then the claim of the assessee for deduction Under Section 80M of the Income-tax Act shall be allowed. The issue shall, therefore, be considered and decided in the light of our observations made above and according to the directions given, of course, by providing opportunity to the assessee also to explain and substantiate its claim.

13. Ground No. 3 is, therefore, allowed for statistical purposes and the appeal is decided accordingly.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com