



DEL HC: Loan Raising Expenditure For Repaying Liabilities & Statutory Dues Allowable; Cannot Question Assessee's Commercial Expediency

Facts of the Case

Ebony Retail Holdings Limited ('Assessee') was subjected to disallowance of expenditure of about Rs. 6.25 crores incurred for obtaining a loan of around Rs. 42 crores. The loan proceeds were utilised, inter alia, for repaying a previous loan of Standard Chartered Bank, refunding share application money, making an investment in a subsidiary company, and advancing funds to a related party. The CIT(A) partly allowed the Assessee's appeal and deleted the major portion of the disallowance, while sustaining proportionate interest expenditure relatable to the amount deployed for the subsidiary and related-party advances. Both the Assessee and the Revenue's appeals before the Tribunal were dismissed, leading to the Revenue's appeal before the Delhi High Court.

Contentions of the Revenue

The Revenue argued that the expenditure incurred for raising the loan was not allowable since the borrowed funds were not wholly used for business purposes. It was submitted that the Assessee had no plausible justification for taking a fresh loan to repay an earlier loan and that the interest cost should be disallowed proportionately. The Revenue also contested the deletion of the larger part of the addition by the CIT(A) and the Tribunal.

Contentions of the Assessee

The Assessee contended that raising a fresh loan to repay an existing loan was a matter of commercial wisdom and business expediency, which the Assessing Officer could not sit in judgment over. It was further submitted that refund of share application money was a statutory or contractual obligation and borrowing funds for meeting such liability was a legitimate business necessity. The Assessee also supported the CIT(A)'s view that only the portion of the loan used for investment in the subsidiary and advance to a related party could be disputed.

Observations and Ruling of the High Court

The Delhi High Court held that it is within the commercial wisdom of an Assessee to decide whether to take a fresh loan for repaying an existing loan, and the Assessing Officer cannot question such business acumen or substitute his own view. The Court also observed that refund of share application money is a bounden obligation, and if borrowing is undertaken to meet such liability, the corresponding expenditure cannot be treated as non-business expenditure. At the same time, the Court agreed that utilisation of borrowed funds for the subsidiary and related party amounted to diversion of funds, and such component was rightly disallowed. Finding no infirmity in the order of the CIT(A) and the Tribunal, the High Court dismissed the Revenue's appeal and held that no substantial question of law arose.

Citation:

Ebony Retail Holdings Ltd. [TS-543-HC-2026(DEL)]



Our Comments

This ruling reiterates that the tax authorities cannot second-guess bona fide financing decisions taken in the ordinary course of business. Where borrowing is genuinely used to repay liabilities or meet statutory obligations, the related expenditure remains allowable, provided the Assessee can demonstrate business nexus. The decision also draws a clear line where borrowed funds are diverted to subsidiary or related-party concerns, in which case proportionate disallowance can still be sustained. Only question could arise where the original loan was taken for capital expenditure and it is repaid by using another loan.