

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'H' NEW DELHI**

**BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER
&
SMT. BEENA A PILLAI, JUDICIAL MEMBER**

**I.T.A .No.-1878/Del/2015
(ASSESSMENT YEAR-2011-12)**

Mohit Tyagi, Prop. Prem Tyagi Trading Company & Shanu Trading Company, 22-23, Gali No. 2, Mandoli Village Delhi. ADJPT6361M	vs	JCIT Range 34 New Delhi.
Assessee by	Sh. S.K. Dwedi, CA	
Revenue by	Sh. V.R. Sombhadra, Sr. DR	

Date of Hearing	06.04.2016
Date of Pronouncement	03/05/2016

ORDER

PER BEENA A PILLAI, JUDICIAL MEMBER:

The present appeal has been filed by the assessee against the order of ld. CIT(A)'s-19, New Delhi, vide order dated 29/12/2014 for A.Y. 2011-12 on the following grounds of appeal:

1. *“That the ld. CIT(A) has erred in law while upholding the addition u/s 68 of the Income Tax Act, 1961 made by the ld. Assessing Officer in respect of loans taken by assessee from two parties of Rs. 2,90,000/- (Rs. 2,50,000/- and Rs. 40,000/-) by ignoring the submissions*

of the assessee and as such the addition of Rs. 2,90,000/- may please be deleted.

2. That we crave to add, alter, delete modify or withdraw any of the above grounds at the time of hearing.”

2. Brief facts of the case are as under:

The appellant is a service provider of mobile phone items like recharge coupons, sim cards, data card etc. The return of income was filed on 27.09.2011 at a total income of Rs. 6,22,152/-. During the assessment proceedings, the Assessing Officer noticed that the assessee had taken unsecured loan of Rs. 2,50,000/- on 31.03.2011 from Mrs. Suman Tyagi and unsecured loan of Rs. 40,000/- on 30.03.2011 from Shri Vicki Gupta. The Assessing Officer added back the amount totaling of Rs. 2,90,000/-, as unexplained credit u/s 68 of the Income Tax Act, 1961, since the assessee failed to prove the creditworthiness of these two loan creditors.

3. Aggrieved by the order of the ld. Assessing Officer, the assessee preferred an appeal before the ld. CIT(A).

4. The ld. CIT(A) confirmed the addition made by the ld. Assessing Officer on the ground that the credit worthiness of the loan creditors could not be proved by the assessee satisfactorily.

5. Aggrieved by the order of the ld. CIT(A) the assessee is in appeal before us.

5.1 The ld. AR submitted that the loan of Rs. 40,000/- was taken by the assessee from Shri Vicky Gupta and Rs. 2,50,000/- from Mrs. Suman Tyagi. He submitted that the bank statements and the addresses of both the loan creditors were submitted during the

assessment proceedings and, therefore, the addition could not be made, as the assessee had proved the credit worthiness of the loan creditors.

6. On the contrary the ld. DR submitted that the creditworthiness of both the loan creditors stood unproved by the assessee, even during the appellate proceedings and the assessee's Authorized Representative admitted that both the loan creditors were not tax payers. The ld. DR further submitted that the assessee did not file the loan confirmations or the bank statements of the loan creditors during the appellate proceedings so as to enable the ld. CIT(A) to verify the evidence submitted by him before the Assessing Officer.

7. We have perused the orders of the authorities below and the arguments by both the parties.

7.1 It is observed from the assessment records that the unsecured loan of Rs. 40,000/- has been given by Shri Vicky Gupta during the year under consideration on 30/03/2011. It is observed by the ld. Assessing Officer that on 30/11/2010, 01/12/2010, 02/12/2010, 18/12/2010 & 29/01/2011, there has been cash deposit into the account of Shri Vicky Gupta totaling to Rs. 91,000/-. The ld. Assessing Officer further observed that outstanding balance before deposit of these cash was only Rs. 4,970/-.

7.2 In respect of Smt. Suman Tyagi the ld. Assessing Officer observed that cash of Rs. 3,00,000/- and Rs. 45,000/- were deposited on 11/02/2011 and 24/02/2011 respectively. An amount of Rs. 2,50,000/- has been advanced as loan to the assessee on 31/03/2011. The explanation for deposit of such cash

was that Smt. Suman Tyagi was carrying on business of crush since 2005 and that she has been accumulating the money received from the crush which has been deposited as on 11/02/2011.

8. The ld. Assessing Officer further observed that these loan creditors do not have PAN numbers and are not Income tax assesses. Merely because Smt. Suman Tyagi being a lady and the income earned by her being is below taxable limit, cannot be valid reason for not having a PAN number and also not filing Income tax return. It is observed from the assessment order that the assessee could not substantiate the credit worthiness of the loan creditors satisfactorily.

9. Considering the dates on which the cash has been deposited into the bank accounts of the respective loan creditors viz-a-viz the date of which the money has been advanced as loan to the assessee it is difficult to believe that these were genuine. It is also observed by the Assessing Officer that Smt. Suman Tyagi had opened the bank account with bank of Baroda on 21/02/2011. Considering the normal tendency that a lady would have, it is not possible that Smt. Suman Tyagi has not utilized the money received from crush, since 2005 to 2011. We are, therefore, not inclined to accept the submissions/contentions advanced by the ld. AR. We are, therefore, inclined to confirm the addition made by the ld. Assessing Officer.

10. Accordingly, the ground raised by the assessee stands dismissed.

11. In the result, the appeal stands dismissed.

Order is pronounced in the open court on 03.05.2016

Sd/-
(S.V. MEHROTRA)
ACCOUNTANT MEMBER

Dated: 03.05.2016

**Kavita Arora*

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

		Date
1.	Draft dictated on	27.04.2016
2.	Draft placed before author	27.04.2016
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	03.05.2016
6.	Kept for pronouncement on	03.05.2016
7.	File sent to the Bench Clerk	03.05.2016
8.	Date on which file goes to the AR	
9.	Date on which file goes to the Head Clerk.	
10.	Date of dispatch of Order.	

