

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI
BEFORE SRI MAHAVIR SINGH, JM AND SRI N.K. PRADHAN, AM**

**ITA No.5978/Mum/2014
(A.Y:2010-11)**

Labtop Instruments Pvt. Ltd. Labtop House, Plot No.59, Opposite to Amarson Waliv Phata, Sativali Road, vasai(E) Dist. Thane, Mumbai-401208	Vs.	Income Tax Officer, 8(3)-2, Aayakar Bhavan, M.K. Road, Mumbai
PAN No.AAHCS4114P		
Appellant	..	Respondent
Assessee by	..	Shri. Mehul Shah, AR
Revenue by	..	Shri. B.S. Bist, DR
Date of hearing	..	10-01-2017
Date of pronouncement	..	17-02-2017

ORDER

PER MAHAVIR SINGH, JM:

This appeal by the assessee is arising out of the order of CIT(A)-18, Mumbai, in appeal No. CIT(A)-18/ITO-8(3)(2)/IT-123/2013-14 dated 18-07-2014. The Assessment was framed by ITO-8(3)(2), Mumbai for the A.Y. 2010-11 vide order dated 14-03-2013 u/s 143(3) of the Income Tax Act, 1961 (hereinafter ‘the Act’).

2. The first issue on this appeal of the assessee is against the order of CIT(A) confirming the addition of loan taken from Shri Byju George u/s 68 of the Act of Rs. 2,00,000/-. For this assessee has raised following ground No.1: -

“The Learned CIT(Appeals)-18 on the facts and in the circumstances of the case and in law erred in confirming the additions made by the ITO of Rs.2,00,000/- being loan taken from Shri Byju George u/s 68 of the Act.”

3. We have heard the rival contentions and gone through the facts and circumstances of the case. The AO as well as CIT(A) noticed that the assessee has received a loan of Rs. 2,00,000/-. Accordingly, the AO made addition and CIT(A) on the same reasoning confirmed the addition.

4. Before us, the learned Counsel for the assessee stated that this loan of Rs.2,00,000/- from director Byju George is explained and this was by way of account payee cheque. The

learned Counsel for the assessee drew our attention to page No.7 of assessee's paper book, wherein copy of confirmation of account is enclosed. Further, the assessee drew our attention to the copy of bank statement, which is enclosed at page 22 of the assessee's paper book wherein an amount of Rs.2,00,000/- was deposited on 31-03-2010. He also file copy of Income Tax return filed by Mr. Byju George including form no.16 and balance sheet wherein this loan is depicted. According to the learned Counsel for the assessee none of the authorities below have examined these evidences and hence requested for setting aside of this issue for examination of these evidences.

5. As regards to the second issue of addition confirmed by the CIT(A) being an amount of Rs. 17.75 lakhs being cash payment out of the amount withdrawn from the bank towards stamp duty for the property purchase. For this assessee has raised following ground no. 3:-

"3. The learned CIT(A)-18 on the facts and in the circumstances of the case and in law erred in confirming the additions made by the income Tax Officer of Rs. 17,75,000/- being cash payment of the amount withdrawn from the bank towards stamp duty for the property purchased.."

6. Before us the learned Counsel for the assessee stated that the assessee company has purchased a property and paid stamp duty of Rs.17.75 lakhs on 23-12-2009 after withdrawing cash from the bank. The assessee before the AO vide letter dated 19-02-2013 filed the details of cash withdrawals from bank, which is enclosed at page 27 of the assessee's paper book i.e. the copy of bank account No.CC/213 of Vasai Vikas Sahakari Bank Ltd. whereby on 23-12-2009 a sum of Rs.17.75 lakhs was withdrawn vide cheque no.258600. According to the learned Counsel none of the authorities below have examined these evidences. In term of the above, the learned Counsel for the assessee stated that the let this issue be examined by the AO afresh reason being the source of this amount is explained.

7. After hearing rival contentions and going through the facts of the both the issues, we are of the view that prima facie, assessee is able to explain the source of these two additions i.e. a loan of Rs. 2,00,000/- from Byju George director of the company and this amount of Rs.17.75 lakhs withdrawn from bank. But these documents were not filed before

the AO, hence after admitting these evidences, we restore the matter back on both the issues to the file of the AO for fresh adjudication.

8. **In the result, the appeal of assessee is allowed for statistical purposes.**

Order pronounced in the open court on 17-02-2017.

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Mumbai, Dated: 17-02-2017

Sudip Sarkar /Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
Assistant Registrar
ITAT, MUMBAI