

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'SMC' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member**

**I.T.A. No. 1508/KOL/ 2014  
Assessment Year: 2008-2009**

***Binay Chandra Sadhukhan,.....Appellant***  
***Tona, Machibangha, Baruipur,***  
***24-Parganas (South)-700 135***  
***[PAN : AUDPS 6613 G]***

**-Vs.-**

***Income Tax Officer,.....Respondent***  
***Ward-53(2), Kolkata,***  
***Aayakar Bhawan, Dakshin,***  
***2, Gariahat Road (South),***  
***Kolkata-700 068***

***Appearances by:***

***Shri Manoj K. Tiwari, A.R., for the assessee***  
***Shri Amitabh Chowdhury, JCIT, Sr. D.R., for the Department***

Date of concluding the hearing : February 17, 2016

Date of pronouncing the order : March 02, 2016

**O R D E R**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-XXXIII, Kolkata dated 27.03.2014 for the assessment year 2008-09 and the solitary issue raised therein relates to the addition of Rs.3,78,000/- made by the Assessing Officer and confirmed by the Id CIT(Appeals) on account of loans claimed to be taken by the assessee from two persons/creditors treating the same as unexplained cash credits under section 68.

2. The assessee in the present case is an individual, who is engaged in the business of trading of fertilizers and pesticides. The return of income for the year under consideration was filed by him on 26.09.2008 declaring total income of Rs.1,41,318/-. During the course of assessment proceedings, it was noticed by the Assessing Officer that the assessee has

received loans of Rs.2,09,000/- each from Shri M. Sahabuddin and Shri Molla Amir Ali and the said loans received in cash have been repaid again in cash during the year under consideration. He, therefore, proceeded to examine the said loans received by the assessee representing cash credits under section 68 and recorded his findings/ observations on such examination in respect of both the creditors as under:-

**“Shri M. Sahabuddin**

*i) The cash loans as entered regularly in the books of Rs.19,000/- instead of a round figure of Rs.20,000/- is very much improbable considering the frequency of transaction.*

*ii) The huge cash loans taken from M. Sahabuddin during the month of Jyeshtha 2007 i.e. beginning of lean season when money is very much in need for the poor agriculturist is highly improbable.*

*iii) The admission of M. Sahabuddin that between Rs.10,000/- to Rs.20,000/- was held at the time of Jyeshtha, 2007 decisively negates the fact that Rs.2,09,000/- had been extended as loan by the deponent to the assessee in that month. This assertion of deponent further holds credence since the assessee had informed the deponent of the balance in the very month itself.*

*iv) It is highly improbable for a small farmer like M. Sahabuddin to give loan to the assessee in lakhs of rupees.*

*v) It is quite improbable that the agriculturist would lend such huge amounts of money without any interest where he can earn reasonable interest by depositing the same in a bank or in any other modes of investment or using the same in his business. It may be noted that there is a bank located right in the locality in which the assessee has his shop. This is pertinent since the deponent is not entirely illiterate and has been conducting agricultural business on his own which includes production and sale of the produce. This implies that he has the minimum business acumen and knowledge of value of money. It is quite improbable that he would allow all the savings out of his meagre resources to be lent out without interest, without any receipt, without keeping track of the deposits and without the security provided by the bank with the assessee. It is further improbable when it is known to him that the same money is being used by the assessee to further his own business without the lender gaining anything.*

*vi) Upon being asked to show cause why this amount not be considered as unexplained cash credit u/s 68 of the Income Tax Act, 1961, Sri Nandy failed to give any convincing reply”.*

**“Shri Molla Amir Ali**

*i) The cash loans as entered regularly in the books of Rs.19,000/- instead of a round figure of Rs.20,000/- is very much improbable considering the frequency of transaction.*

*ii) The huge cash loans taken from Molla Amir during the month of Shravan, 2007 i.e. middle of lean season when money is very much in need for the poor agriculturist is highly improbable.*

*iii) The admission of M. Sahabuddin that between Rs.10,000/- to Rs.20,000/- was held at the time of Jyeshtha, 2007 decisively negates the fact that Rs.2,09,000/- had been extended as loan by the deponent to the assessee in that month. This assertion of deponent further holds credence since the assessee had informed the deponent of the balance in the very month itself.*

*iv) It is highly improbable for a small farmer like M. Sahabuddin to give loan to the assessee in lakhs of rupees.*

*v) It is quite improbable that the agriculturist would lend such huge amounts of money without any interest where he can earn reasonable interest by depositing the same in a bank or in any other modes of investment or using the same in his business. It may be noted that there is a bank located right in the locality in which the assessee has his shop. This is pertinent since the deponent is not entirely illiterate and has been conducting agricultural business on his own which includes production and sale of the produce. This implies that he has the minimum business acumen and knowledge of value of money. It is quite improbable that he would allow all the savings out of his meagre resources to be lent out without interest, without any receipt, without keeping track of the deposits and without the security provided by the bank with the assessee. It is further improbable when it is known to him that the same money is being used by the assessee to further his own business without the lender gaining anything.*

*vi) Upon being asked to show cause why this amount not be considered as unexplained cash credit u/s 68 of the Income Tax Act, 1961, Sri Nandy failed to give any convincing reply”.*

3. On the basis of the above observations/findings recorded by him, the Assessing Officer considered the loans received from two creditors only to the extent of Rs.20,000/- each as explained and the balance amount aggregating to Rs.3,78,000/- was added by him to the total

income of the assessee treating the same as unexplained cash credit under section 68.

4. The addition of Rs.3,78,000/- made by the Assessing Officer under section 68 was challenged by the assessee in the appeal filed before the Id. CIT(Appeals). During the course of appellate proceedings before the Id. CIT(Appeals), affidavits of both the concerned creditors Shri M. Sahabuddin and Shri Molla Amir Ali were filed by the assessee as additional evidence, wherein the source of funds for giving loans to the assessee was sought to be explained by them. This additional evidence was forwarded by the Id. CIT(Appeals) to the Assessing Officer and after taking into consideration the comments offered by the assessee thereon in the remand report as well as the counter comments offered by the assessee on the remand report submitted by the Assessing Officer, the Id. CIT(Appeals) confirmed the addition of Rs.3,78,000/- made by the Assessing Officer under section 68 after discussing each and every aspect elaborately in his impugned order before arriving at a conclusion that the creditworthiness or capacity of the concerned two creditors to advance the loan amounts in question to the assessee was not satisfactorily established. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

5. I have heard the arguments of both the sides and also perused the relevant material available on record. The Id. Counsel for the assessee has mainly reiterated before me the submissions made before the authorities below in support of the assessee's case that the relevant cash credits in question representing loans taken from the two creditors are duly explained in terms of section 68. He has also invited our attention to the income and expenditure account of both the creditors placed at page no. 18 & 31 of the paper book to show that they had sufficient funds generated from their agricultural activities to advance the loan amounts in question to the assessee. It is, however, observed that the round figures of sale of agricultural produce and corresponding agricultural

expenses reflected therein are not supported by any documentary evidence whatsoever in the form of bills, vouchers, etc. It is also observed that none of these two creditors has maintained any Bank account. In these facts and circumstances, I am of the view that mere ownership of agricultural land by the concerned two creditors is not sufficient to establish their creditworthiness or financial capacity to advance the loan amounts in question to the assessee especially when there is not even an iota of evidence to show the extent of agricultural income claimed to be generated by them. Even the other source of funds explained by them in the affidavits was found to be not satisfactory by the Id. CIT(Appeals) for the elaborate reasons given by him in his impugned order and keeping in view the same as well as the specific adverse findings/observations recorded by the Assessing Officer, I am of the view that the creditworthiness or the financial capacity of the concerned two creditors to advance the loan amounts in question has not been satisfactorily established. In that view of the matter, I uphold the impugned order of the Id. CIT(Appeals) confirming the addition of Rs.3,78,000/- made by the Assessing Officer by treating the loan amounts in question as unexplained cash credits under section 68 and dismiss this appeal of the assessee.

**6. In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open Court on March 02, 2016.

**Sd/-**

**(P.M. Jagtap)  
Accountant Member**

**Kolkata, the 2<sup>nd</sup> day of March, 2016**

- Copies to :
- (1) **Shri Binay Chandra Sadhukhan,  
Tona, Machibangha, Baruipur,  
24-Parganas (South)-700 135**
  - (2) **Income Tax Officer,  
Ward-53(2), Kolkata,  
Aayakar Bhawan, Dakshin,  
2, Gariahat Road (South),  
Kolkata-700 068**

- (3) Commissioner of Income-tax (Appeals)-XXXIII, Kolkata*
- (4) Commissioner of Income Tax, Kolkata*
- (5) The Departmental Representative*
- (6) Guard File*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**