

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI
BEFORE MS. DIVA SINGH, JUDICIAL MEMBER**

**ITA No. 4394/Del/2016
Assessment Year: 2007-08**

Medicross Pharma Chem Ltd. 90- Jamun Mohalla, Lal Kurti, Meerut Cantt, Uttar Pradesh PAN : AAACM9391B	Vs.	ACIT Circle-1 Meerut
(Appellant)		(Respondent)

Appellant by	Sh. K Sambath & Mr. V. Rajkumar, Adv
Respondent by	Sh. T. Vasanthan, Sr. D.R.
Date of hearing	24-08-2017
Date of pronouncement	18.10.2017

ORDER

PER DIVA SINGH, J.M. :

The present appeal has been filed by the assessee assailing the correctness of the order dated 31.5.2016 of CIT(A) Meerut, New Delhi pertaining to 2007-08 assessment year on the following grounds:-

“The learned CIT (Appeal) was not justified by dismissing the appeal.

The learned Commissioner of Income Tax (Appeal) has not taken into account the facts of the case that the depositors are directors with the appellant Company and proof of theirs wrt assessability and creditworthiness were submitted during the original assessment proceedings.

The assessee craves leave to add / alter any of the grounds of appeal before or at the time of hearing.

2. The learned AR inviting attention to the assessment order and the impugned order submitted that the assessee is in the business of marketing and trading of

Pharmaceutical medicines and Drugs. The assessee in the year under consideration had received an amount of Rs. 5,55,000/- as unsecured loan from the following persons:-

1. Sh. Neeraj Dewan Rs. 30,000/-
2. Sh. Aizaz Fatima Rs. 1,00,000/-
3. Sh. S.K. Sharma Rs. 1,00,000/-
4. Sh. Arif Masood Rs. 55,00/-

3. The assessee was required to establish the identity, creditworthiness and genuineness of the transaction. The assessee in response thereto admittedly filed copies of the bank statement, copy of income tax returns and confirmations of the creditors. Inviting attention to the impugned order and the assessment order it was submitted that the explanation advanced which has not been rebutted or negatively commented upon by the Assessing Officer who mechanically made the addition of Rs. 2,50,000/- holding that the amounts were not explained. The onus cast upon the assessee it was submitted stood discharged. Assailing the orders, it was his submission that reliance placed on decisions without assailing the evidence relied upon is an incorrect approach adopted by the tax authorities. The learned Sr. DR relied upon by the orders.

4. I have heard the submissions and perused the material available on record. On a consideration of these submissions and the material on record, I find that once the assessee had given the copies of bank statements, copies of income tax returns and also filed confirmations of the creditors wherein no defect had been pointed out by the tax authorities, the addition relying upon judicial precedence in different cases without first addressing the factual inadequacy of assessee's explanation cannot be sustained. Accepting the explanation of the assessee, the addition is directed to be deleted.

4. In the result, the appeal of the assessee is allowed.

The order is pronounced in the open court at the time of hearing itself on 18th October, 2017.

Sd/-
(DIVA SINGH)
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	24.08.2017	PS
2.	Draft placed before author	11.10.2017 / 17.10.2017	PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS		PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk		PS
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.		

