

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH: CHENNAI**

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI D.S.SUNDER SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.1024, 1025, 1026 & 1027/Mds/2016  
निर्धारण वर्ष /Assessment Years: 1980-81, 1982-83, 1983-84 &  
1984-85

Mrs.Meena Kumar Mohnot,  
New No.28, Old No.38, College  
Road, Nungambakkam,  
Chennai-600 006.

**Vs.**

The Asst. Commissioner of  
Income Tax, Non-Corporate  
Circle-3, Chennai-600 034.

**[PAN: AADPM 7727 M]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by  
सुनवाई की तारीख/Date of Hearing  
घोषणा की तारीख /Date of  
Pronouncement

: Mr.D. Anand, Adv.  
: Mr.B. Sahadevan, JCIT  
: 31.03.2017  
: 07.06.2017

**आदेश / ORDER**

**PER D.S.SUNDER SINGH, ACCOUNTANTMEMBER:**

These appeals are filed by the assessee against the Orders of the Commissioner of Income Tax (Appeals), Chennai, for the Assessment years 1980-81, 82-83, 83-84 and 1984-85. Since the common issues are involved in all the appeals the same are clubbed, heard together and disposed off in common order as under:

**2.0** A search was conducted u/s.132 was conducted in the case of Mr.N.K.Mohnot in the business premises as well as the residential premises in November, 1983 & January, 1984. Smt. Meena Kumari Mohnot is mother of Shri N.K Mohnot and certain incriminating material was found belonging to Smt. Meena Kumari Mohnot in the form of Note books seized as GS and LS indicating unexplained investment. Consequent to search u/s.132 in case of M.K. Mohnot, the assessments were taken up and completed in the assessee's case u/s 143(3) of the Act, the matter went up to the ITAT and the ITAT remitted the matter back to the file of the A.O. In the second round, the assessing officer completed the assessments u/s 143(3) r.w.s. 254 of the Act and the assessee is in appeal before us against the order of the Ld.CIT(A).

**3.0** The First issue for the **Assessment year 1980-81**, is the loan from Shri S.K.Bhandari. This issue is involved in A.Y. 1980-81, 1982-83 and 1983-84. For the sake of convenience the facts are extracted from the A.Y 1980-81. The assessee accepted a loan of Rs.10,000/- from Mr.SK Bhandari. The AO made the enquiries regarding Shri SK.Bhandari but could not find him in the given address. The assessee neither furnished the new address nor produced him for examination. No other evidence was produced before the AO to prove the genuineness of the loan. Therefore, the AO made the addition of Rs.10,000/- which was confirmed by the Ld.CIT(A).

**3.1** Aggrieved by the order of the CIT(A) the assessee filed the appeal before us. The Ld.AR of the assessee argued that the assessee is not a new creditor and the credit was existing from 1979-80, due to strained relationship with the creditor, the assessee could not produce the creditor. Therefore, the Ld.AR of the assessee argued that the interest as well as the principle amount of Rs.10,000/-, representing the addition made by the AO should be deleted. The assessee also relied on the decision of this Tribunal in ITA No.2251/Mds/93 in assessee's own case. On the other hand, the Ld.DR relied on the order of the lower authorities.

**4.0** We heard the rival submissions and perused the material placed before us.

The assessee received a sum of Rs Rs.10,000/- as a loan during the year under consideration and failed to produce any evidence regarding the genuineness of the cash credit and the identity of the creditor. It is a settled law that the assessee has to establish the genuineness, identity and credit worthiness of the creditor. The assessee has not placed any evidence regarding the identification, genuineness and creditworthiness of the creditor. Though the Tribunal remitted back the matter for furnishing the necessary evidence to establish the genuineness of the credit the assessee failed to establish the same. Therefore, there is no merit in the argument of the assessee that the loan is genuine. The assessee relied on the decision of assessee's own case, where the addition was deleted in view of the amount involved but not because of the genuineness of the

credit was established. The assessee did not even furnish the confirmation and identity of the creditor. Thus the addition made by the AO is confirmed and the order of the Ld.CIT(A) is upheld. The assessee's appeal on this ground is dismissed.

**5.0** Similar addition was made in respect of the *loans taken from Shri S.K.Bhandari for the A.Ys 1982-83 for Rs.15000/-, and 1983-84 Rs.1,00,000/-* which was confirmed by the CIT(A). Since facts of the case are the same we uphold the orders of the Ld.CIT(A) in confirming the addition and the assessee's appeal on this ground for Assessment years *1980-81, 82-83, 83-84* are dismissed.

**6.0** The next issue in appeal for the **A.Y 1980-81** is addition of Rs.4,800/- estimated interest on the loan of Shri S.K.Bhandari. As per the Assessment Order and the Ld.CIT(A) order, there was no discussion regarding the payment of interest to Shri SK Bhandari. There was no evidence found during the course of search regarding the payment of interest to Shri Bhandari. Therefore, we are of the view that the AO made the addition purely on surmise without any evidence. Thus the addition made by the AO is deleted and the orders of the lower authorities are set aside. This ground of the appeal is allowed.

**7.0** The next ground is the addition made on the basis of *seized books of accounts*. This issue is involved for the A.Y 1980-81, 1982-83, 1983-84

and 1984-85. During the search proceedings, note books marked as GS/LS were found and seized. Smt. Meena Kumari is the mother of Shri N.K. Mohnot.

The assessing officer made the addition on the basis of seized materials for the A.Y 1980-81, 82-83, 83-84 and 1984-85 as follows:

<b>Assessment Year</b>	<b>1980-81</b>	<b>1982-83</b>	<b>1983-84</b>	<b>1984-85</b>
Addition for Advances to various persons	1,32,000	3,39,650	3,53,415	---
Addition of interest estimated *	20,000	22,000	22,000	-
Addition of interest**		45,000	9,415	1,10,000

- i) For the A.Y.1980-81 the addition of Rs.1,32,000/- represent the advances made to various persons as per the seized note book and the amount of Rs. Rs.20000/- was the interest estimated on the said advances.
- ii) For the A.Y .1982-83 the addition of Rs.3,39,650/- arrived by the AO basing on the books found for F.Y.1982-83 recasting the trial balance for the F.Y.1981-82. The sum of Rs.22,000/- was interest on advances Rs.1,32,000/- assessed in 1980-81, and Rs.45000/- was the estimated interest on advances of Rs.3,39,650/-
- iii) For the A.Y .1983-84 the addition of Rs. 3,53,415/- arrived by the AO as per the books found for F.Y.1982-83 and Rs.22,000/- was interest on advances of Rs.1,32,000/- assessed in 1980-81 and Rs.9415/- was the estimated interest on advances of Rs.3,53,415/-
- iv) For the A.Y1984-85 the addition of Rs. 1,10,000/- was estimated interest on advances assessed as undisclosed income as per the seized material for the A.Y 1980-81, 82-83 and 83-84.

**7.1** The above advances/entries were not found in the regular books of accounts of the assessee and the assessee has denied the books of accounts found at the time of search stating that the books of accounts were not belonging to her and no search was conducted in her residence.

She further stated that she was never residing at Madras and she visited her son now and then. The assessing officer not being impressed with the explanation of the assessee held that as per the presumptions u/s.132(4A) of the Act, note books were belonged to the assessee and the transactions recorded therein were also related to her business, unless the assessee proves otherwise and accordingly, made the additions of Rs.1,52,000/-,4,06,650/,3,84,830/- and Rs.1,10,000/- for the A.Ys1980-81, 82-83, 83-84 and 1984-85 respectively.

**7.2** Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) confirmed the addition made by the assessee relying on the presumption u/s.132(4A) of Income tax act. For the sake of clarity and convenience we extract the relevant paragraph from the order of the Ld.CIT(A) for the A.Y.1982-83 which reads as under:

*27. During the course of search operation, a cash book and ledger for the accounting period 1982-83 in the name of the assessee were found and seized. As the books of accounts related to the subsequent assessment year, a trial balance was arrived at as on 31/03/1982 based on the opening balance as per the books of accounts as on 01/04/1982. The total of the credit side of the trial balance, viz the capital account and the sundry creditors was worked out at Rs.3,39,650/-. The assessee was asked to substantiate the trial balance. It was initially contended by the appellant that these books of accounts did not relate to her. Later it was contended that these books of accounts did not disclose true affairs of her accounts. Since the books of accounts were seized from the premises of the assessee during the search operation, the onus was on the assessee to prove that either the books of accounts did not relate to her or the contents were not correct. However, the assessee failed to substantiate on both the accounts. Accordingly, it was rightly held by the AC that the books of accounts seized during the search operation, represented her unaccounted financial business activity. Therefore, in the absence of any documentary evidences to substantiate her contentions, the AC rightly added back the amount of Rs.3,39,650/- as unexplained income from her unexplained financial business activity. Since these credits and capital account were not reflected in her books of accounts, the AC estimated and amount of Rs.45,000/- as interest income thereon. In view of the above, the action of the AD in adding back these two amounts to the income of the assessee, is confirmed.*

**7.3** Aggrieved by the order of the Ld.CIT(A), the assessee filed the appeal before this Tribunal.

During the appeal, the Ld.AR argued that the search was conducted in the premises of Appellant's son and the warrant of authorization was also issued in the name of Appellant's son Shri NK. Mohnot. Neither any search and seizure action u/s 132 was conducted in her residential premises and nor any books of accounts /documents were seized from her premises, hence the presumption u/s132(4A) has no application in assessee's case. The note books purported to be seized from the premises of Mr. Mohnot does not belong to her and it were not in her hand writing. No statement was recorded from her at the time of search confronting the seized material found from her son's premises. The Ld. A.R further argued that the assessee is residing all along in Rajasthan and this fact was confirmed by the statement recorded from the assessee by the ADIT Jodhpur in December, 1994. The assessee stated in her statement that she is residing in the Jodhpur and she has never resided in the address that was searched u/s.132 of IT Act. Therefore, making the assessment on the basis of the books of accounts found from the premises of Shri N.K. Mohnot was not in accordance with the provisions of law. The assessee relied on the observation of Hon'ble Apex Court in the case of PR Mitrani vs.CIT reported in 287 ITR 209. On the other hand, the Ld. DR relied on the orders of the lower authorities.

**7.4** We heard both the parties and perused the material placed on record.

The books of accounts were seized from the residence of Mr. N.K Mohnot son of the assessee who is residing in Flat No.65, Biya complex Pursawalkam High Road, Madras and Mohnot & co, 1<sup>st</sup> floor, No.16 Raaman street, Madras. This is evident from the Panchnama drawn from the residential premises and business premises, which is not disputed by the Revenue. The assessee in her statement recorded in December, 1994 and stated that she is ordinarily residing in Jodhpur but not in Madras. The assessee has given the address in the Income Tax Returns No.38, College Road, Nungumbakkam, Chennai-600006, for the purpose of filing Income Tax Returns and according to the assessee, there was no search carried out by the Income Tax Department in the address of the assessee where she is residing either in Rajasthan or the address in Chennai. The department also could not place any evidence to controvert the above submission of the assessee. We have called for the records and the Panchnama of the searched premises, and the Department could not place any record to show that there was a search u/s.132 in the premises of No.38 College Road, Nungumbakkam, Chennai or in residential premises of the assessee in Chennai or any other place connected with the assessee. As stated earlier, the books of accounts were seized from the premises of Mr.N.K. Mohnot and as per the provisions of Sec.132(4A) and Sec.292C, the presumptions are applicable to Shri N.K, Mohnot, since the

books of accounts were found in the premises of Mohnot. For ready reference, we extract the relevant provisions of Sec.132(4A) as under:

*(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—*

- (i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;*
- (ii) that the contents of such books of account and other documents are true ; and*
- (iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.]*

Similarly, Sec.292(C) which is Parimateria of Sec.132(4A) in respect of presumptions of assets books of accounts, etc., reads as under:

*[Presumption as to assets, books of account, etc.*

*292C. <sup>15</sup>[(1)] Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search under section 132 <sup>16</sup>[or survey under section 133A], it may, in any proceeding under this Act, be presumed—*

- (i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;*
- (ii) that the contents of such books of account and other documents are true; and*
- (iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.]*

*<sup>17</sup>[(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 132A, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 132A, had been found in the possession or control of that person in the course of a search under section 132.]*

Both the sections 132(4A) and Sec.292C presume that the books of accounts, documents found and seized from the premises of a person belong to the person who was under search u/s.132. In the case of the assessee, there was no search carried out u/s.132 of the Act, either in Chennai or in Jodhpur where she is ordinarily residing. The Department has not brought on record to show that she is residing with her son in Flat No.65, Parusawalakkam, Chennai or any other premises where the search u/s.132 was carried out in connection with N.K.Mohnot and others. No statement u/s.132(4A) was recorded from Mr. N.K. Mohnot with regard

to the seized books of accounts of the assessee and confronted with the assessee regarding contents in the seized material and to make her responsible for the contents of the seized books. The assessee has flatly denied the books of accounts and were stated to be not in her hand writing. The normal course of action would be to record statement from shri N.K. Mohnot who was searched u/s 132 with regard to the contents of the note books and to confront the contents of the statement with the assessee and to draw inference. But no such exercise was done in this case. Therefore, in the absence of any evidence to show that there was action u/s132 of Income tax act in the assessee case and exercise has been made by the Revenue to prove that the incriminating material was belonged to the assessee with the relevant statements recorded u/s 132(4) or u/s 131 of the IT Act, we are of the considered view that that the presumption to hold that he books of accounts belonged to the assessee u/s 132(4A) of I.T. Act cannot be made applicable to the assessee. Further the AO also caused the enquiries in respect of the loans and advances stated to have been made to the parties and received replies denying the transactions. Therefore, we hold that the addition made on the basis of presumption u/s.132(4A) in the hands of the assessee cannot be sustained and deleted. This view is supported by the decision of Hon'ble Delhi High court in the case of CIT v. Anil Khandelwal reported in 93 CCH 0042. Therefore the assessee's appeal on this ground for the A.Ys **1980-81, 82-83, 83-84 and 1984-85** are allowed.

**8.0** The next issue for the **A.Y.1980-81** is the addition of Rs.10,000/- in respect of credit in the bank of Rajasthan and estimated interest thereon Rs.1000/-. This account was not disclosed to the Department. Therefore, the AO made addition of Rs.10,000/- u/s.69 of IT Act. The Ld.CIT(A) confirmed the addition made by the AO.

The Ld.AR argued that the assessee is having substantial source of income and the source of credit made in the bank of Rajasthan can easily be explained. But the same was not explained by with the cash flow statement. The account belonged to the assessee and it was undisclosed which is not disputed by the assessee. There was a peak credit balance of Rs.10000/- in the account and the assessee has not placed any evidence before us to establish the source of the deposits made in the Bank Account. The assessee has not denied that the bank account belonged to her. Therefore, we uphold the addition of Rs.10,000/- and confirm the order of the Ld.CIT(A) with regard to the deposit. However we do not find any evidence in respect of interest charged by the assessee and assessed by the AO. The entire addition was made on surmises which cannot be sustained.. Therefore, we are unable to uphold the addition made by the AO on account of interest. Accordingly, the same is deleted and the appeal of the assessee on this ground is partly allowed.

**9.0** The next issue is the addition of Rs.1,50,000/- for the A.Y. 1982-83 and Rs. 4,58,500/- for the **A.Y 1983-84** on account of cash credits during relevant previous years.

The AO found the following new credits in the trial balance as on 31.03.82, which was added back to the income.

Name	Opening balance	Credit during the year	Date	Total
1. Sri Prakkashchand K. Jain	85,000/-	20,000/-	15.12.81	1,05,000/-
2. Sri Kishore Kumar P. Jain	65,000/-	30,000/-	15.12.81	75,000/-
3. Sri Nirmal Kumar P. Jain	60,000/-	35,000/-	15.12.81	95,000/-
4. Sri Sushil Kumar Bhandari	45,000/-	15,000/-	05.10.81	55,000/-
5. Sri Omprakash Gupta	-	50,000/-	15.12.81	50,000/-
	<b>Total</b>	<b>1,50,000/-</b>		

**9.1** For the **A.Y.1983-84** the AO has made the addition of (Rs.2,25,000/-+2,33,500/-) Rs. 4,58,500/- as unexplained cash credits in respect of the following creditors.

Sk. Bhandari	Rs.	1,00,000/-
Kishore Kumar Jain	Rs.	45,000/-
Nirmal Kumar Jain	Rs.	55,000/-
Om Prakash Gupta	Rs.	25,000/-
Kesharimal Jhaverchand	Rs.	1,50,000/-
Prakash chand & Sons	Rs.	83,500/-
	<b>Rs.</b>	<b>4,58,500/-</b>

The AO has given several opportunities to the assessee in the original assessment as well as in the re-assessment proceedings. But the assessee failed to furnish any fresh evidence during the reassessment proceedings. Therefore the A.O made the addition of Rs.150000/- for the

A.Y.1982-83 and Rs. 4,58,500/- for the A.Y 1983-84 as per the details given above.

**9.2** Aggrieved by the order of the A.O the assessee went on appeal to the CIT(A) and the Ld.CIT(A) confirmed the addition made by the AO with the following observations.

*23. From the order of the Honourable Tribunal, it is noticed that the Tribunal had set aside the original assessment in this case with this conviction that the assessee would furnish the requisite and relevant information and evidences before the AO to substantiate its claims. Accordingly, the AO was also given a direction to provide a reasonable opportunity of being heard to the assessee. However, from the perusal of the assessment order, it is evident that the assessee has deliberately avoided complying with the directions of the Honourable Tribunal. The AC has provided a number of opportunities to the appellant to furnish and produce all the relevant details and evidences to substantiate its contentions. The assessee was also given a number of opportunities to produce the creditors and the other concerned persons for examination before the AO. But there was no such compliance from the assessee. It is noticed that the assessee has not rendered any extra cooperation to the present AO other than what she had done during the original assessment proceeding. It is seen that most of the times; the assessee has referred to the information provided by her during the original assessment only.*

*24. Regarding the addition of Rs.1,50,000/- on account of unexplained credits, it is noticed from the assessment order that a number of opportunities were provided to the assessee not only during the present assessment proceeding but also during the original assessment proceeding. However, the assessee failed to avail of this opportunity. The assessee had furnished either the incomplete addresses of these sundry creditors or had furnished incorrect addresses. In some of the cases, the assessee had failed to furnish any of the addresses. Regarding the rest, the assessee did not furnish their current addresses. The sundry creditors which were actually existing failed to prove their creditworthiness. From the perusal of the income tax returns filed by some of the creditors, it was noticed that the relevant income tax returns were furnished after the search operation carried out by the Income Tax Department and the CBI. Therefore, the transactions pertaining to the present assessee reflected in their returns of income would not be genuine and bonafide. Finally, after exhausting all the options, the AC requested the assessee to produce the sundry creditors in person before him. However, in spite of repeated reminders and opportunities, the assessee failed to comply with the same. From the perusal of the above facts, it is clearly revealed that the assessee was deliberately avoiding furnishing of information and, accordingly, he had failed to discharge the onus cast upon her. In view of this, I am of the considered opinion that the action resorted to by the AC was the most reasonable and bonafide under these circumstances. Hence, the action of the AO is confirmed.*

**9.3** The assessee filed appeal before us against the order of the CIT(A) and reiterated the submissions made before the lower authorities. On the other hand the Ld. DR supported the addition made by the AO.

**9.4** We heard both the parties and perused the material placed on record with regard to the creditors in the case of Shri S.K. Bhandari, we have confirmed the addition in para No. 3 of this order, therefore we confirm ourselves with regard to the remaining creditors. In the assessee's case, the assessment was related to A.Ys1982-83 and 1983-84 and the search was conducted in November, 1983. The case was remitted back to the file of the AO with a direction from this Tribunal to furnish all the necessary evidences to prove the case before the A.O. From the Assessment Order and the Ld. CIT(A) order it is seen that the AO has given a number of opportunities to the assessee and the assessee has not produced the relevant evidences to prove the genuineness of the transaction. The argument of the assessee that identity of the creditors and their creditworthiness have already been established in the A.Y 1981-82 and substantially higher amounts have been accepted by the ITAT is not an acceptable argument. Income Tax proceedings for each year is independent. The assessee has to prove the identity, capacity and credit worthiness of the creditor every year for the advances accepted during the year under consideration. This view is upheld in number of judgments. In the instant case, it was set aside to the A.O with a direction to furnish evidence to the A.O to establish the genuineness, identity and credit worthiness of the creditor in the re-assessment proceedings but the assessee failed to furnish any evidence to support her case. Therefore we do not find any infirmity in the orders of the CIT(A) and we uphold the

same. The assessee's appeal on this ground for the A.Y 1982-83 and 1983-84 are dismissed.

**10.0** The Next issue for the **A.Y.1982-83** is the addition in respect of Rs.10,000/- cash received from M/s. Balaji Plastics & Metals Enterprises.

In the assessee's books, it was shown as a receipt from M/s. Balaji Plastics & Metals Enterprises. The AO issued summons and the said party has stated that there was no transaction with the assessee. Therefore, the AO disbelieved the credit and made the addition u/s.68 of IT Act. The Ld.CIT(A) confirmed the addition.

**10.1** During the appeal hearing, the Ld.AR argued that the assessee has submitted Hundi Receipt signed by the buyer and also the details of payment. The A.R. submitted that the debtor was examined after so many years and the addition was made without affording any opportunity to the assessee to cross examine the debtor. The documentary evidence was filed by the assessee to prove the advances made and re-payment received from the party and the same cannot be held as unexplained cash credits. On the other hand the Ld.DR supported the orders of the lower authorities.

**10.2** We heard both the parties and perused the material placed on record.

In the assessee's case, the assessment related to 1982-83 and the search was conducted in November, 1983. The case was remitted back to the file of the AO with a direction from this Tribunal to furnish all the necessary evidences to prove the case. From the Assessment Order, it is seen that the AO has given a number of opportunities to the assessee and the assessee has not produced the relevant evidences to prove the genuineness of the transaction. In this case, the amount of Rs.10,000/- stated to be received from M/s.Balaji Plastics towards re-payment of the loan. The assessee also stated that Hundi Receipt signed by the buyer was furnished. But the party has denied the transaction, hence it is obligation on the part of the assessee to prove the transaction by producing the creditors. Both the authorities have stated that the assessee has not produced any evidence to prove the genuineness of the transaction. Therefore, we do not find any infirmity in the Orders of the Ld.CIT(A) and the same is upheld. The assessee's appeal on this ground is dismissed.

**11.0** The next issue for the **A.Y 1983-84** is consequential addition of Rs.15,000/- being the interest charged on the advances taken from Kesharimal Jhaverchand Rs.1,50,000/- and Prakash chand & Sons Rs.83,500/- aggregating to Rs.2,53,500/-. There was no evidence brought on record by the A.O regarding the payment of interest to the above parties. Even in re-assessment proceedings the A.O has not brought on

record any evidence to prove that the assessee has made the payment of interest to the above creditors. In the absence of any evidence we are unable to sustain the additions made by the A.O, and accordingly the same is deleted. The orders of the lower authorities on this issue are set aside and the appeal of the assessee on this issue is allowed.

**12.0** The Next issue for the **A.Y. 1984-85** is the addition of Rs.1,68,400/- relating to the Repayment of Loans. The AO made the addition of Rs.1,68,400/- as per the following discussion in the assessment order.

*During the previous year relevant to the assessment year 1984-85, the books of account of the assessee showed the following amounts received from the persons mentioned against each on different dates as repayment of loan advanced to them by the assessee:*

- i. M/S Vummidiar Muralidhar Jewellers at Rs.1,00,000/- on 27.08.1983.*
- ii. Smt. Zeenath at Rs. 15,000/- on 03.08.1983.*
  
- i. Sh. Shah Jhan at Rs.10,000/- on 05.08.1983.*
- ii. Sh. M.C.H. Iqbal at Rs. 20,000/- on 06.08.1983.*
- iii. Sh.U. Basheeruddin at Rs.23,500/- on 04.08.1983.*

*The assessee was asked to substantiate the above transactions with necessary evidence, It was already brought to the assessee's notice that these parties had denied that they had repaid the amounts to the assessee. The assessee or her son did not furnish any additional information or evidence. In the letter dt. 22.09.93, it was stated that the transactions had taken place through the financial book a/c. As regards M/s. Vummidi Muralidhar Jewellers, a Xerox copy of the pronote stated to had been executed by them in favour of the assessee, was enclosed. M/s Vummidi Muralidhar jewellers in this letter dt. 23.02.87, had categorically stated that they did not have any transaction with Mrs. Meenakumari Mohnot during the year 1983-84. The Manager of the concern produced the cash book and ledger relevant to this period and these were examined by the AC and no such transaction was found. The fact was already brought to*

*the notice of the assessee long back. Similarly, other persons mentioned above, Filed letters dt. 10.02.87 and stated that only interest was paid by them and not the principal amount during the relevant period.*

*5. From the above, it was clear that the assessee did not actually recover the money as claimed by her but had only introduced her unaccounted money in the guise of repayment of loans by the said parties. In spite of several opportunities provided to the assessee, no evidence to substantiate the assessee's claim was furnished nor was any additional information furnished. Under these circumstances, the amount shown in the names of various debtors was treated as assessee's undisclosed income brought into books in the guise of repayments of loan and charged to tax.*

**12.1** Aggrieved by the order of the A.O, the assessee went on appeal before the CIT(A) and the Ld..CIT(A) confirmed the addition and the relevant paragraph of the CIT(A) is extracted asunder:

*11. The AO has made an addition of Rs. 1,68,500/- on account of unexplained receipts claimed to had been received as repayment of loans from five different parties. The assessee was asked to substantiate these transactions. It is pertinent to mention here that these parties had denied of having paid any such amount to the assessee except the amount of interest on the loan amount. It was rightly observed by the AO that these amounts were not actually recovered by the assessee during the relevant year under consideration but she had simply introduced her own unaccounted money in the names of these debtors. The assessee had failed to controvert the statements of the said creditors. During the appellate proceeding also, the assessee has failed to furnish any cogent material evidence to substantiate her contentions. Therefore, I am of the considered opinion that the assessee had introduced her unaccounted money in the names of above mentioned parties as repayment of loans. Hence, the action of the AO is confirmed.*

**12.2** We heard both the parties and perused the material placed on record.

It is evident from the assessment order reproduced above that the above parties have denied the re-payment of the amounts to the

assessee. Though the debts are outstanding in the names of the above persons, having denied transactions by the debtors burden is on the assessee to prove that the amounts had actually come to the account for re-payment of the above loans, failing which the cash credits appearing in the names of the debtors should be treated as unexplained and brought to tax which the A.O has exactly done in the assessment order and the CIT(A) has confirmed the order of the A.O. In the re-assessment proceedings also the assessee has not furnished any evidence to establish that the credits were actually repayment of loans. Therefore, we did not find any infirmity in the order of the Ld. CIT(A) and the same is upheld.

**13.0** In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 7<sup>th</sup> June, 2017, at Chennai.

**Sd/-**

(एन.आर.एस. गणेशन)

**(N.R.S. GANESAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

**Sd/-**

(डि.एस. सुन्दर सिंह)

**(D.S.SUNDER SINGH)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 7<sup>th</sup> June, 2017.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF