

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "B", MUMBAI**

**BEFORE SHRI JOGINDER SINGH, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.5413/M/2011
Assessment Year: 1996-97**

M/s. Musale Investments Pvt. Ltd., (Now known as Musale Enterprises P. Ltd.), 164, Senapati Bapat Marg, Matunga (West), Mumbai - 400 016 PAN: AAACM3616K	Vs.	ITO 6(3)-4, Mumbai
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Suman Kumar, D.R.

Date of Hearing : 25.07.2018
Date of Pronouncement : 06.08.2018

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 01.03.2006 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 1996-97.

2. The only issue raised by the assessee is against the confirmation of addition to the tune of Rs.1,75,00,000/- by Ld. CIT(A) despite the fact that the identity, creditworthiness and genuineness were duly proved.

3. At the outset, we would like to mention that the case of the assessee was adjourned for 14 times from 2012 till 25.07.2018 i.e. the present date of hearing. The assessee kept on seeking the adjournments for one reason or the other. On 22.05.2018 the assessee applied for the adjournment stating that the counsel who was attending the case of the assessee was no longer appearing before the Tribunal and therefore new counsel has to be appointed and three days time was given by the Tribunal giving final opportunity failing which the case would be decided ex-parte. However, on the said date also neither assessee nor the authorised representative of the assessee appeared before the Bench to attend the hearing and therefore we are proceeding to dispose of the appeal after considering the merits and after hearing the Ld. D.R.

4. The facts in brief are that the AO during the course of assessment proceedings found that the assessee has borrowed by way of unsecured loan from various companies to the tune of Rs.2,40,00,000/-. The AO added the same after considering the reply of the assessee by treating the same as non genuine and added the same under section 68 of the Act to the income of the assessee by framing under section 143(3) read with section 147 vide order dated 31.03.2003. Thereafter, the matter travelled upto the ITAT challenging the order of Ld. CIT(A) wherein the Tribunal, Mumbai vide order dated 16.06.2004 restored the matter to the file of the AO

with the direction to re-adjudicate the issue afresh in the light of the various directions given. So this is the second round of litigation before the Tribunal.

5. The Ld. CIT(A) again sustained the addition to the tune of Rs.1,75,00,000/- and thus upheld the order of AO by passing a detailed order after considering the submissions of the assessee and remand report from the AO.

6. We find that the Ld. CIT(A) has decided the issue on merits after considering the submissions of the assessee and remand report of the AO. We, therefore, do not find any reason to deviate from the findings of Ld. CIT(A) as there is no material before us to take a different view from what has been decided by the first appellate authority. Under these circumstances, we are inclined to uphold the order of Ld. CIT(A) by dismissing the appeal of the assessee.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 06.08.2018.

Sd/-
(Joginder Singh)
JUDICIAL MEMBER

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Mumbai, Dated: 06.08.2018.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.