

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No.2634/DEL/2019  
Assessment Year: 2014-15

Pradeep Jindal, Prop. Pradeep Impex, C/o Kapil Goel, Advocate, F-26/124, Sector-7, Rohini, New Delhi.	v.	ACIT, Circle-40(1), New Delhi.
TAN/PAN: AEPPJ 2814L (Appellant)		(Respondent)

Appellant by:	Shri K. Sampath, Advocate, Shri V. Rajakumar, Advocate		
Respondent by:	Shri Surender Pal, Sr.D.R.		
Date of hearing:	25	07	2019
Date of pronouncement:	30	07	2019

**ORDER**

**PER AMIT SHUKLA, JUDICIAL MEMBER**

The aforesaid appeal has been filed by the assessee against the impugned order dated 21.01.2019, passed by Id. Commissioner of Income Tax (Appeals)-XIV, New Delhi for the quantum of assessment passed u/s.143(3) for the Assessment Year 2014-15. In various grounds of appeal, the assessee has mainly challenged the addition made u/s.68 on account of unexplained cash credit of Rs.1,78,65,000/- received from one person, namely, Mr. Jyoti Chawla.

2. From the perusal of the impugned order, it is seen that ld. CIT (A) has passed an ex-parte order. However, before us ld. counsel has submitted written submission along with all the details furnished before the ld. CIT(A).

3. The facts in brief are that assessee had shown unsecured loan of Rs.1,71,89,000/- on the following parties.

<i>Sr. No.</i>	<i>Name of Party</i>	<i>Closing balance as on 31.03.2014</i>
1.	<i>J.B. Jindal</i>	<i>17,19,900/-</i>
2.	<i>Nimbus Sales Corporation</i>	<i>1,47,10,000/-</i>
3.	<i>Urmila Jindal</i>	<i>7,60,000/-</i>

To verify the genuineness and creditworthiness of the parties, Assessing Officer called an explanation u/s.133(6) from all the parties and in response to which only Mr. J.B. Jindal and Mrs. Urmila Jindal responded to the notices and no information was received from M/s. Nimbus Sales Corporation. The assessee has given details of one person, Mr. Jyoti Chawla and bank account statement of her proprietary concern, M/s. Nimbus Sales Corporation. On perusal of these documents and bank account statement of Mr. Jyoti Chawla, proprietor, M/s. Nimbus Sales Corporation, he noted that similar amount of cash has been deposited in the account of M/s. Nimbus Sales Corporation before it was transferred to the assessee. He has further noted that Mr. Jyoti Chawla never responded to the notices u/s. 133(6) nor he appeared in response to the summons u/s.131 of the Act. Accordingly, he treated the amount received from M/s. Nimbus Sales Corporation as unexplained.

5. Ld. CIT (A) too has confirmed the said addition after observing and holding as under:

*“5. In the written submissions the assessee claimed that since he furnished the address and PAN of Mr. Jyoti Chdwla and onus u/s 68 has been discharged. The said contention cannot be accepted as the onus u/s 68 was on the assessee in respect of loan claimed to have been taken by the assessee. Mere furnishing of PAN on address of the lender does not amount to discharge of onus u/s 68. It needs to be mentioned that in the bank account of Nimbus Sales Corporation, there have been cash deposits immediately before the issue of cheques of loan to the assessee, which puts a question mark on the genuineness of transactions and credit worthiness of the claimed lender. In view of the same various case laws relied upon by the assessee are distinguishable. The amount received' from Nimbus Sales" Corporation has been shown as unsecured loans in the balance sheet. But in the written submission dated 14.12.2016 addressed to the AO and copy filed in the paper book it is claimed that the amount was received against the supply of goods. However, this claim has also not been established. The present status of the said amount i.e. whether the amount has been repaid or whether any goods were sold has also not been explained or established.*

*Though in the grounds of appeal only the addition on merits has been has also not been explained or established whether any interest was paid to Nimbus Sales Corporation. Considering the same, non-compliance of the assessee in the appellate proceedings, in spite of several opportunities given, the addition made is confirmed.”*

6. Before us, ld. counsel for the assessee submitted that apart from all the documentary evidence assessee had filed affidavit of Mr. Jyoti Chawla and also on statement recorded

on oath by the Assessing Officer on 21.12.2017 which was for the subsequent assessment proceedings, wherein he has accepted the loan given to the assessee and Assessing Officer in the assessment order passed u/s. 143(3) for the Assessment Year 2015-16 has accepted the genuineness of loan. Thus, he submitted that matter can be restored back to the file of the Assessing Officer to decide the issue in the light of fact that in subsequent assessment proceedings similar nature of loan from the same parties has been accepted after examining the debtor on oath.

7. On the other hand, ld. DR has strongly relied upon the order of the AO and ld. CIT (A) and has pointed out that in case matter is restored back to the Assessing Officer then creditor should be directed to be produced before the AO.

8. After considering the rival submissions and on perusal of the material placed on record, we find that during the course of assessment proceedings though assessee had filed various documents and evidences, however the ld. AO has mainly made the addition on the ground that creditor did not respond in response to the notices u/s. 133(6) and summons issued u/s.131. Before us, it has been submitted by the ld. counsel that in the subsequent assessment proceedings the same creditor Mr. Jyoti Chawla was produced and his statement was recorded, the genuineness and the creditworthiness of the loan given by the same person have been accepted. In view of these facts and material on record,

we are of the opinion that this matter should be remanded back to the file of the Assessing Officer to decide this issue afresh and assessee shall produce the creditor before the Assessing Officer in response to the summons issued u/s.131 and Assessing officer after examining the same and other evidences on record shall decide the issue in accordance with law. Thus, the issue of addition of Rs.1,78,65,000/- is set aside and matter is remanded back to the file of the AO to be decided a fresh and in accordance with law after giving due and effective opportunity of hearing to the assessee.

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

**Order pronounced in the open Court on 30<sup>th</sup> July, 2019.**

Sd/-

**[PRASHANT MAHARISHI]  
ACCOUNTANT MEMBER**

DATED: 30<sup>th</sup> July, 2019

PKK

Sd/-

**[AMIT SHUKLA]  
JUDICIAL MEMBER**