

**In the Income-Tax Appellate Tribunal,
Delhi Bench 'C', New Delhi**

**Before : Shri H.S. Sidhu, Judicial Member And
Shri B.R.R. Kumar, Accountant Member**

**ITA No. 6701/Del/2014
Assessment Year: 2010-11**

Vogue Home Products Ltd., Plot No. 153, Sector-4, IMT Manesar, Gurgaon. PAN-AACCC4074H (Appellant)	vs.	Income-tax Officer, Ward 17(4), New Delhi (Respondent)
--	------------	---

Appellant by	Sh. V. Raja Kumar, Advocate
Respondent by	Sh. Amit Katoch, Sr. DR

Date of Hearing	01.08.2019
Date of Pronouncement	01 .08.2019

ORDER

Per B.R.R. Kumar, A.M.:

In this case, the assessment has been completed on 24.01.2013, making addition of Rs.1,00,00,000/- as unexplained unsecured loans.

2. The brief facts are that during the year assessee company declared Unsecured Loans amounting to Rs.2,74,44,039/- as against Rs. 1,66,37,374/- in the immediate preceding year resulting into increase of Rs. 1,08,06,665/-. The details of Unsecured Loans as per the balance Sheet filed by the assessee company is appended below:-

Unsecured Loans	31.03.2010	313.2009
Crew B. O. S. Products Limited	6374945/-	6137374
Mr. Tarun Oberoi	422157/-	Nil
Mr. Robin Bartholomew	146937/-	Nil
Simple Fin Lease Pvt. Ltd.	4000000/-	4000000/-
Garg Petroleum Pvt. Ltd.	11500000/-	6500000/-
India Traders Pvt. Ltd.	5000000/-	Nil
Total	27444039/-	16637374/-

During the course of assessment proceedings, the assessee company vide letter dated 30.10.2012 filed the Copy of Account duly confirmed by M/s. Garg Petroleum Limited in which they have confirmed the Unsecured loan amount of Rs.1,15,00,000/- in which Rs. 65,00,000/- pertain to previous year and Rs.50,00,000/- received on 08.07.2009. Notice U/s 133(6) has been issued to M/s. Garg Petroleum Private Limited to verify the above mentioned transaction.

2.1 In response of Notice issued by the department, M/s. Garg Petroleum Private Limited has submitted their reply vide letter dated 10.11.2012 in which they have denied the payment of Rs. 50,00,000/- to the assessee company and send the copy of account duly confirmed for the opening balance of Rs.65,00,000/-. As per the Bank Statement filed by the assessee company it reflects the receipt of Rs.50,00,000/- through RTGS on 16.06.2009 for which assessee has narrated as receipt from M/s. Garg Petroleum Private Limited. It is also important and strange that only one entry of Rs.50,00,000/- is appearing in the bank statement whereas assessee company has claimed increase in Unsecured Loans amounting mainly to Rs. 1,00,00,000/-. In reply to Notice issued by this department, assessee company has submitted that the balance pertains to M/s. Garg Petroleum Private Limited was Rs.65,00,000/-

and Rs.50,00,000/- received through RTGS was from M/s. Transnational Growth Fund Limited which was wrongly credited in the balance of M/s. Garg Petroleum Private Limited. No justification has been filed by the assessee company that when the balance of M/s. Garg Petroleum Private Limited was Rs.65,00,000/- then how the confirmation of Rs. 1,15,00,000/- has been filed during the assessment proceedings by the assessee company which was duly signed by M/s. Garg Petroleum Private Limited. Even as per Notes of account which were duly signed by the Auditors of the Company vide point no. 13 and 14 also certify that outstanding amount of M/s. Garg Petroleum Private Limited was Rs. 1,15,00,000/-. Show Cause Notice dated 21/12/2012 has been issued to the assessee company to explain the above mentioned discrepancies noticed during the assessment proceedings & to justify that how unsecured loans were increased by Rs. 1,00,00,00/- when only Rs. 50,00,000/- were received by the assessee company in bank account. In reply to Show Cause Notice assessee company has submitted that amount of loan from M/s. Garg Petroleum Private Limited was Rs.65,00,000/- and Rs.50,00,000/- was given by M/s. Garg Petroleum Private Limited to M/s. Crew BOS Products Limited and inadvertent error could not be detected at the time of finalization of the assessee company as the above sum of Rs. 50,00,000/- which sum was in fact received from Transactional Growth Fund Limited but due to a punching error credited to the account of M/s. Garg Petroleum Private Limited and this amount continued to be wrongly shown as unsecured loan received from M/s. Garg Petroleum Private Limited instead of unsecured loans received from Transactional Growth Fund Limited.

2.2. Regarding the entry pertaining to M/s. India Traders Private Limited, assessee submitted that the same was repaid to M/s. India Traders Private Limited vide cheque no.912927 dated 31.03.2009 and the same was dishonored on 05.04.2009 and the same was re-entered in the books of accounts on 05/04/2009 since no bank transaction was held, that's why the same is not reflected in the Bank Statement.

2.3. The Assessing Officer did not accept the reply of assessee, giving the following comments :

"1. M/s. Garg Petroleum Private Limited

No justification has been filed by the assessee company that why Auditors has certified the wrong Balance Sheet and Notes of Accounts and How M/s. Garg Petroleum Private Limited has submitted to confirmations on for Rs.65,00,000/- and another one of Rs. 1,15,00,000/-. The another aspect that RTGS of Rs. 50,00,000/- received on 16.06.2009 originally claimed as received from M/s. Garg Petroleum Private Limited now claimed from M/s. Transactional Growth Fund Limited has different dates and if any error of punching has occurred then how dates were changed from 16.06.2009 to 08.07.2009. In these circumstances, I hold that the assessee company has failed to substantiate the receipt of unsecured loan of Rs. 50,00,000/- and is hereby added to the income of the assessee company. Since the assessee has concealed a part of income Provisions of Section 271(1) (c) are hereby attracted for initiating penalty proceedings in this regard. Hence penalty proceedings are also hereby initiated.

2. M/s. India Traders Private Limited

As per the explanations filed by the assessee company that amount has been repaid to M/s. India Traders Private Limited on 31.03.2009 is also against the facts as no reflection of dishonored of cheque issued to M/s. India Traders Private Limited on 05/04/2009 has appeared in the Bank Statement and also No bank charges were also reflected on the said date

for dishonor of cheque. Also as per the confirmation filed by the M/s. India Traders Private Limited, they have not received any cheque as claimed as paid by the assessee company on 31.03.2009. In these circumstances, I hold that the assessee company has failed to substantiate the receipt of unsecured loan of Rs.50,00,000/- and is hereby added to the income of the assessee company. Since, the assessee has concealed a part of income. Provisions of Section 271 (1) (c) are hereby attracted for initiating penalty proceedings in this regard. Hence penalty proceedings are also hereby initiated.”

3. The learned CIT(A) confirmed the addition, as the assessee failed to file copy of the order u/s. 143(3) of M/s. Crew BOS Pvt. Ltd. and copy of their final accounts.

4. During the hearing before us, the ld. AR argued that they did not get sufficient time to file the details before the authorities below, while the ld. DR argued that since the identity and creditworthiness of the creditors and genuineness of the transaction have not been proved before the Revenue authorities, the addition needs to be upheld.

5. We have gone through the facts on record. We find that the amount received from M/s. Garg Petroleum Private Limited was, in fact, received from M/s. Crew BOS Pvt. Ltd. Similarly, an amount of Rs.50,00,000/- has been received from Tansnational Growth Funds Ltd. Since these two entities have been wrongly entered in the books of account in another name, the creditworthiness of these two entities could not be proved before the Revenue Authorities. Hence, in the interest of justice, we remand the matter back to the file of the Assessing Officer to examine the identity, creditworthiness and genuineness of the parties from whom the assessee has received the loans. It

also needs to be examined about the authenticity of the confirmation filed by the assessee regarding the loan, received from M/s. Garg Petroleum Pvt. Limited, while the company M/s. Garg Petroleum Pvt. Limited has denied the fact of giving any loan to the assessee. The Assessing Officer is at liberty to make the enquiries as he deems fit to examine the issue. The assessee is also hereby directed to comply with the notices issued by the Revenue authorities and submit all relevant documents to prove the identity, creditworthiness and genuineness of the parties, from whom the loans, in fact, have been received.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court.

Sd/-

(H.S. Sidhu)
Judicial member

Sd/-

(B.R.R. Kumar)
Accountant Member

Dated: 01 August, 2019

aks

Copy of order forwarded to:

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>Commissioner</i>	(4)	<i>CIT(A)</i>
(5)	<i>Departmental Representative</i>	(6)	<i>Guard File</i>

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Delhi Benches, New Delhi*