

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI
FRIDAY 'C' BENCH, NEW DELHI

BEFORE MS. SUSHMA CHOWLA, JUDICIAL MEMBER
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

SA No. 1028/DEL/2019
A/o ITA No. 8333/DEL/2019 [A.Y 2016-17]

Smt. Meenu Kapoor
819, Katra Neel, Chandni Chowk
Delhi

Vs.

The A.C.I.T
Circle - 47(1)
New Delhi

PAN: AAJPK 6319 D

(Applicant)

(Respondent)

Assessee By : Shri R.K. Singal, CA

Department By : Shri Sanjay Kapoor, Sr. DR

Date of Hearing : 06.12.2019

Date of Pronouncement : 06.12.2019

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

With this stay application, the assessee prays for stay of demand arising out of the assessment order dated 10.12.2018 framed u/s

143(3) of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] for assessment year 2016-17.

2. Before us, the ld. counsel for the assessee pointed out that out of the total demand of Rs. 4.67 crores, which includes tax and interest, the assessee has already paid a sum of Rs. 93.51 lakhs, which comes to 20% of the total demand and requested for stay of the balance demand of Rs. 3.71 crores.

3. The ld. counsel for the assessee explained the facts and circumstances which prompted the Assessing Officer to make the impugned additions and vehemently stated that the assessee has a very good case before the Tribunal.

4. Per contra, the ld. DR strongly opposed the stay application and stated that the assessee has failed to discharge the onus cast upon her by provisions of section 68 of the Act.

5. We have given thoughtful consideration to the assessment order. The bone of contention is the addition of Rs. 10.20 crores made u/s 68 of the Act. We find that the Assessing Officer has made additions

solely on the ground that the assessee has failed to prove the credit worthiness of the lenders as the return of income of the lenders is disproportionate to the amount of loan given by them respectively.

6. In our considered opinion, the Assessing Officer has simply considered the return of income and not the fund flow statement of the lenders. We further find that all the lenders are family members of the assessee and are regularly assessed to tax. In our considered opinion, the assessee has a prima facie good case to defend. However, at the same time, we find that the assessee has paid only 20% of the demand. Therefore, we direct the assessee to pay a further sum of Rs. 50 lakhs on or before 30th day of December 2019 and subject to the payment of this sum, balance demand is stayed for a period of six months or till the disposal of the appeal, whichever is earlier.

7. The Registry is directed to list the case for hearing on 05.02.2020. Since the date of hearing was announced in the open court, which is in the knowledge of both the representatives, no notice shall be served. Needless to mention that the assessee shall not seek adjournment without any justifiable cause and shall file relevant paper

books prior to the date of hearing, as per provisions of the law.

8. In the result, the stay application of the assessee in SA No. 1028/DEL/2019 is disposed of accordingly.

The order is pronounced in the open court on 06.12.2019.

Sd/-

**[SUSHMA CHOWLA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: **06th** December, 2019

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	