

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC +C": NEW DELHI
BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
AND
SHRI K.N.CHARY, JUDICIAL MEMBER

ITA No. 5904/Del/2018
(Assessment Year: 2015-16)

Reliance Medico Pvt. Ltd, Bhagat Singh Marg, Saharanpur, Uttar Pradesh PAN: AAACR6681H	Vs.	ITO, Ward-3(3), Saharanpur
(Appellant)		(Respondent)

Assessee by :	None
Revenue by:	Ms. Ekta Vishnoi, Sr. DR
Date of Hearing	15/10/2019
Date of pronouncement	13/01/2020

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee against the order of the ld CIT(A), Muzaffarnagar dated 20.06.2018 for the Assessment Year 2015-16.
2. The assessee has raised the following grounds of appeal:-
 - “1. *That the Ld AO has grossly erred in law and facts of the case to make an addition of Rs 216500/- U/s 68 on account of unsecured loans from directors observing that following loans are not genuine*

<i>Neha Handa</i>	<i>128500</i>
<i>Neeraj Handa</i>	<i><u>88000</u></i>
	<i>216500</i>
 2. *That without prejudice to the above the Ld CIT(A) has erred (through order dated 20.8.2018) in sustaining the addition of an amt of Rs 216500/- by failing to appreciate that provision of sec 68 are not applicable to the case.*
 3. *That identity of genuineness and creditworthiness of the depositors are proved before the ld A.O. as well as before Ld CIT(A) therefore there was no ground before them to make additions U/s 68 read with sec 115BBE. As both the depositors are assessed to tax from last so many years and all the deposits were made through a/c payee cheques and deposits have duly shown in their statement of affairs, which have been filed before the Ld A.O*
 4. *That there was absolutely no jurisdiction before the ld CIT(A) to uphold the order of Ld AO as the identity genuineness and creditworthiness of*

both the depositors has been proved by the appellant and both the deposits are routed through banking channel and depositors have sufficient cash in hand as source of deposits in Bank before giving loan to Appellant.

5. *That the ld CIT(A) is absolutely wrong in not considering the evidences in support and confirmation of depositors and also wrong in brushed aside all the evidences submitted before him during the course of assessment, proceeding merely on suspicion, conjecture and surmise.*
6. *That the assessment is erroneous, contrary to the facts and law of the case, therefore, additions made by the ld AO and sustaining by the Ld CIT(A) must be deleted and merit to be modified.”*
3. The facts shows that the assessee is a private limited company, filed return of income on 26.09.2015 at Nil income. Assessee is a company which is deriving its income from trading of medicine. The assessee have directors Shri Neeraj Handa, Smt Kamlesh Handa and Smt Neha Handa. The loans were received from two of persons. The assessee received Rs. 128500/- from Smt Neha Handa and Rs. 88,000/- from Neeraj Handa. The company was taken loan through account payee cheque and all the persons are stated to be family members and directors of the company. The ld AO noted that before giving loan to the assessee company, in the account of these persons there were bank account transfer and deposits in cash. With respect to the deposit of cash in the account of lenders assessee could not submit the source to the satisfaction of the ld AO. However, the assessee submitted the copy of the return of income and balance sheets. With respect to the genuineness, assessee submitted that these are family members and cash is deposited out of cash in hand available with them. The ld AO rejected the explanation of the assessee and made an addition of Rs. 216500/- u/s 68 of the Act. The assessment was passed on 15.12.2017 of Rs. 216500/-.
4. The assessee preferred appeal before the ld CIT(A). The ld CIT(A) confirmed the above additions. Therefore, the assessee is in appeal.
5. At the time of hearing none appeared on behalf of the assessee. On the earlier occasions also the assessee did not appear. Therefore, the issue is decided on the merits of the case.
6. The ld DR relied upon the order of the lower authorities.
7. We have carefully considered the contentions of the ld DR and the facts emerging out of the orders. This is apparent that assessee has taken unsecured loan of Rs. 128500/- and Rs. 88000/- from Smt Neha Handa

and Neeraj Handa. The cash was deposited in the bank account of those persons before issue of cheque in favour of the assessee. The assessee submitted that the above sum was out of their past savings and current income. The assessee has also furnished their statement of affairs as on 31.03.2014. The Id CIT(A) noted that in the case of Neha Handa, cash of Rs. 40,000/- and Rs. 48500/- has been deposited on 17.04.2014 and 26.05.2014 respectively. From this cash deposit the cheque was issued to the assessee. The assessee did not furnish the source of fund available with her as she is not maintaining regular books of account. The Id CIT(A) also noted that her return of income was only Rs. 251500/- and therefore, after meeting the household expenses, she could not have saved above sum available with her. Thus, the creditworthiness of the above loan was not proved. Similarly, the facts shows that loan from Mr. Neeraj Handa was also having the identical facts, in view of this the Id CIT(A) confirmed the above additions. On carefully perusal of the orders of the lower authorities, it is apparent that assessee has failed to prove the creditworthiness of the above loans. Assessee has failed to show creditworthiness of both the lenders. Hence, we do not find any infirmity in the orders of the lower authorities in sustaining the above addition u/s 68 of the Act. Accordingly, we dismiss the appeal of the assessee on all the grounds.

8. In the result the appeal of the assessee is dismissed.

Order pronounced in the open court on 13/01/2020.

-Sd/-
(K.N.CHARY)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 13/01/2020
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi