

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

<b>ITA No.837/Bang/2019</b>
<b>Assessment year : 2012-13</b>

Shri Deepak Bethala, No.815, 8 <sup>th</sup> Block, 8 <sup>th</sup> Cross, 80 Feet Road, Koramangala, Bengaluru – 560 095. <b>PAN : AALPB 7174 K</b>	Vs.	The Assistant Commissioner of Income Tax, Ward – 1(1)(3), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Prashanth G. S, Advocate
Revenue by	:	Shri. Manjeet Singh, Addl. CIT (DR)(ITAT), Bengaluru

Date of hearing	:	28.01.2020
Date of Pronouncement	:	20.02.2020

**ORDER**

*Per A.K. Garodia, Accountant Member*

This appeal is filed by the assessee and the same is directed against the order of learned CIT(A) - 1, Bengaluru dated 31.01.2019 for the Assessment Year 2012-13.

2. In the course of hearing, it was submitted by learned AR of the assessee that ground No.1 is general and ground No.2 is regarding validity of reopening of assessment and this Ground No. 2 is not pressed. He also submitted that the only issue to be decided is regarding the addition made by the AO of Rs. 10 lakhs as unexplained cash credit under section 68 of the Income Tax Act,

1961. He submitted that on page Nos.24 and 25 of the Paper Book is a copy of ledger account of Shri. Kishore Chajjed for the period 01.04.2006 to 31.03.2018. He submitted that as per the copy of ledger account for Financial Year 2004-05 available on page 24, an amount of Rs.10 lakhs was given by the assessee to Shri. Kishore Chajjed by way of two account payee cheques bearing Nos.207843 and 207845 and this amount was receivable from him till 10.07.2011 when this amount was received from him by way of cash and his account was squared up.

3. He submitted that in para 5.3 of his order, it is noted by learned CIT(A) that the assessee could not furnish a proper confirmation letter because of this reason that the said creditor has gone abroad and is not available to provide confirmation immediately. He submitted that the assessee could not provide the confirmation as the concerned person is not in India and for this reason alone, no adverse inference should be drawn. Learned DR of the Revenue supported the orders of authorities below.

4. We have considered the rival submissions. We find that as per page 24 of the Paper Book, an amount of Rs.10 lakhs was paid by the assessee to Shri. Kishore Chajjed by way of two account payee cheques during Financial Year 2004-05 and this is the claim of the assessee that this amount was returned by Shri. Kishore Chajjed in the present year by way of cash and since he has gone abroad and not available in India, confirmation could not be obtained from him. Under these facts, in our considered opinion, it cannot be said that this is a case of unexplained cash credit because the identity of the person from whom it is claimed that the amount has been received is established by the assessee by showing that in Financial Year 2004-05, this amount was advanced by the assessee to that person by way of two account

payee cheques. Regarding creditworthiness and genuineness of transactions also, in our considered opinion, it cannot be said that the creditworthiness of the person is not established because when the amount was given by the assessee to that person in Financial Year 2004-05, for refund of the amount given by the assessee earlier to that person, it cannot be said that the person is not having creditworthiness and the transaction is not genuine. Considering all these facts, we feel that in the facts of the present case, addition made by the AO under section 68 of the Income Tax Act, 1961 is not justified and hence, we delete the same.

5. In the result, appeal of the assessee is allowed.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-  
**(PAVAN KUMAR GADALE)**  
**Judicial Member**

Sd/-  
**(A.K. GARODIA)**  
**Accountant Member**

Bangalore,  
Dated: 20<sup>th</sup> February, 2020.  
/NS/\*

Copy to:

- |               |                         |               |
|---------------|-------------------------|---------------|
| 1. Appellants | 2. Respondent           | 3. CIT        |
| 4. CIT(A)     | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.