

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri Shamim Yahya (AM)

I.T.A. No. 6065/Mum/2018 (Assessment Year 2014-15)

Dhiwisha Reality Plot No. 11, Sector 18,Phase 2, Taloja Taluka, Panvel Raigad-410206. PAN : AAIFD2884R (Appellant)	Vs.	DCIT CIRCEL Panvel (Respondent)
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Assessee by	Shri M. Subramanian
Department by	Shri Chaitanya anjaria
Date of Hearing	17.02.2020
Date of Pronouncement	18.06.2020

O R D E R

This appeal by the assessee is directed against order of learned CIT(A) dated 11/5/2018. It pertains to assessment year 2014-15.

2. The solitary issue raised is the disallowance of unsecured loan of Rs. 9 lakhs under section 68 of the income tax act, and also the consequential interest of Rs. 30,180/-

3. Brief facts of the case are that assessee has shown unsecured loan to the tune of Rs. 17.44 crores. During the course of assessment the assessing officer issued notices under section 133(6). He noted that one of the loan creditors i.e. M/s. Krishna Fashion World did not respond and the letter came back unserved. The assessing officer required the assessee to prove the veracity of the loan creditor. The assessee responded that it had obtained the unsecured loan through account pay cheque. This was duly reflected in the tax audit report. That the said sum was subsequently returned by account pay cheque. The assessing officer was not satisfied, he added the aforesaid sum as cash credit under section 68 of the income tax act. He also disallowed the interest therein.

4. Against the order assessee appeal before the learned commission of income tax appeals. The learned Commissioner of income tax appeals confirmed the order of the assessing officer.

5. Against above order assessee is in appeal before the ITAT.

6. I have heard the parties and perused the records. I find that assessee officer has disallowed the unsecured loan of Rs. 9 lakhs out of Rs. 17.44 crores unsecured loan on the sole basis that notice issued under section 133(6) has returned unserved. It is not the case of the assessing officer that assessing officer has issued notice u/s. 131(1) or has enquired any other aspect the loan. The assessee has duly submitted that the loan was taken by account pay cheque. That it was reflected in the tax audit report. The same was subsequently repaid by account pay. In my considered opinion the assessee in this case has discharged the onus. The Assessing Officer has not made out cogent basis for addition as unsecured loan under section 68. Accordingly, I set aside the orders of the authorities below and decide the issue in favour of the assessee.

7. In the result, the appeal by the assessee stands allowed.

Order has been pronounced under Rule 34(4) of the ITAT Rules on 18.6.2020.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 18/06/2020

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai