

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**Before Ms. Suchitra Kamble, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**(Through Video Conferencing)**

**ITA No. 3090/Del/2016 : Asstt. Year : 2011-12**

Asstt. Commissioner of Income Tax, Circle-50(1), New Delhi	Vs	M/s Saan Global, C-56/18, Institutional Area, Sector-62, Gautam Budh Nagar, Noida, U.P.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAHFS7473A</b>		

**Assessee by : None**

**Revenue by : Sh. Prakash Dubey, Sr. DR**

**Date of Hearing: 18.02.2021**

**Date of Pronouncement: 26.03.2021**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the revenue against the order of the Id. CIT(A)-17, New Delhi dated 30.03.2016.

2. Following grounds have been raised by the revenue:

*"1. The Id. CIT (A) has erred in deleting the addition of Rs.2,50,00,000/- on account of unaccounted income received from undisclosed sources.*

*2. The Id. CIT (A) has erred in accepting the claim off the assessee regarding genuineness and creditworthiness of the companies M/s Patkin Tracom Pvt. Ltd. and M/s Coorg Vincom Pvt. Ltd. without going into the details as the same claim was rejected by the AO on various grounds while making addition.*

*3. The Id. CIT (A) has erred in not considering the facts and circumstances of the said companies as the same has been stipulated by the AO in assessment order specially regarding the preponderance of probabilities and genuineness of transactions.*

*4. The Id. CIT (A) has erred in deleting the addition even without considering the facts that the advance giver has no such assets/advances for which a huge amount can be given to the loanee.”*

3. The assessee received loan from the following two parties:

1. M/s. PatkinTracom Pvt. Ltd. Rs.1,00,00,000/-
2. M/s. Coorg Vincom Pvt. Ltd. Rs.1,50,00,000/-

4. The Assessing Officer brought these amounts to tax holding as under:

- Both the parties have not shown that the loan to the assessee out of Reserve/ Share capital of these companies or any money borrowed from the outside parties and there is no change in the reserves or capital of these companies as compared to the last year and therefore there is no source of money paid to the assessee.
- That the payments in the bank accounts of these parties out of which the loans are advanced to the assessee have been received through RTGS/Bank transfer and immediately on receipt, the payments of loans are made to the assessee through RTGS/Bank transfer.
- Both the parties have declared meager return of income in the return of income filed with the IT authorities.

- The bank account of the party is located at Dena Bank, Kandivilli (West), Mumbai and shown address at Shop No. 10, Sukhsagar, CHS, Soc. Ltd., Kandivilli East Mumbai, the address of the company as per ITR is 211, eastern Building, 19, RN Mukherjee Road, Kolkata and the address as per the audit report of the assessee is 3, Bentricks Street, Calcutta.

5. Aggrieved the assessee filed appeal before Id. CIT (A).

6. The Id. CIT (A) has forwarded the details filed before him to the Assessing Officer and called for remand report. The details forwarded to the Assessing Officer are as under:

“(A) M/s Patkin Tracom Pvt. Ltd. (Loan amount Rs.1,00,00,000)

- a. Copy of account of the appellant in the books of the party for the period 01/04/2010 to 31/03/2015
- b. Copy of bank account of the party highlighting the transactions of loans taken and its repayment in the subsequent years.
- c. Copy of accounts of the party in the books of the appellant for the period 01/04/2010 to 31/03/2015.
- d. Copy of bank account of the appellant highlighting the transactions of loan taken and its repayment in the subsequent period.
- e. Confirmation from the party explaining the source of each payment made to the appellant towards loan.

(B) M/s Royal Fincomm Pvt. Ltd. (Formerly Coorg Vincom Pvt. Ltd.) (Loan amount Rs.1,50,00,000)

- a) Copy of account of the appellate in the books of the party for the period 01/04/2010 to 31/03/2015
- b) Copy of bank account of the party highlighting the transactions of loans taken and its repayment in the subsequent years.
- c) Copy of accounts of the party in the books of appellant for the period 01/04/2010 to 31/03/2015
- d) Copy of bank account of the appellant highlighting the transactions of loan taken and its repayment in the subsequent period.
- e) Confirmation from the party explaining the source of each payment made to the appellant towards loan.

7. Further, the assessee has submitted following documents before the Id. CIT (A) which have been duly forwarded to the Assessing Officer for comments by the Id. CIT (A):

- a) Confirmations in original.
- b) Copies of the bank accounts of the parties highlighting the transactions of loan given to the appellant firm.
- c) Copies of the bank accounts of the appellant highlighting the transactions of loan received from the above parties.
- d) Copies of audited accounts of the parties along with copies of IT return.
- e) Certificates from the appellant's bank confirming that the repayment of interest and principal amount to these parties has been made by account payee cheques.

- f) Copies of TDS certificate showing that the TDS has been duly deducted by the assessee on the interest paid on such loans.
- g) Proof of these companies being registered as Non Banking Financial Corporations.
- h) Copies of FORM 3CD PART II Annexure A showing that these parties have earned substantial interest income from advancing loans which includes interest earned from the appellant. The figures of earning of interest declared by these parties in the above said report are given as under.

NAME	31.03.2010	31.03.2011
M/s Coorg Vincom Pvt. Ltd.	117240	6102383
M/S Pat kin Tracorn Pvt. Ltd.	4948267	9483754

- i) Copies of documents filed with ROC by these companies.

8. No reply has been received by Id. CIT (A) from the Assessing Officer.

9. The Id. CIT (A) (page no.11 para 4) has written letters to the AO vide letters dated 28.04.2015/28.05.2015 which is as under:

*"Please find enclosed herewith the submissions of the assessee filed during the course of appellate proceedings. You are hereby requested to submit para-wise comments on the submissions of the assessee.*

*2. Further, you are directed to call various details as deemed fit from the Assessing Officer of M/s Patkin Tracom Pvt. Ltd. & M/s. Coorg Vincom Pvt. Ltd. from whom the assessee has taken loans aggregating to Rs.2,50,00,000/-. The credit worthiness of these*

*lenders and genuineness of transactions may be investigated, as deemed fit, after obtaining the details from the Assessing Officer of these companies.*

*3. Submit your report to this office by 28.05.2015."*

*A further letter dated 28.05.2015 was also written. The same is also reproduced as under:-*

*"Please refer to this office letter F.No. DEL/CIT(A)-XVII/2015-16/113, dated 28th April, 2015 on the subject mentioned above.*

*2. As per this letter, the report in the aforesaid case has been called for on or before 28.05.2015 after conducting verification/inquiries regarding the genuineness of transactions of loans aggregating to Rs.2,50,00,000/-, which the assessee took from M/s. Patkin Tracom Pvt. Ltd. & M/s. Coorg Vincom Pvt. Ltd. as mentioned in the aforesaid letter, but no report has been received till yet. Once again, you are requested to submit your report, after doing needful enquiries/verification in this case, on or before 15.06.2015.*

*3. Please submit your report in this office in this case on or before 15.06.2015."*

10. The Id. CIT (A) has given seven reminders and having handicapped by cavalier attitude of the Assessing Officer has passed the order deleting the additions. The relevant part of the order of the Id. CIT (A) is as under:

*"There is only one issue involved in all the grounds of appeal which relates to contention of the appellant against addition of Rs.2,50,00,000/- made by the AO u/s 68 of the IT Act. The fact of the case is that during the year under consideration, the appellant had shown unsecured loan to have been taken from M/s. Patkin Tracom Pvt. Ltd. and M/s. Coorg Vincom Pvt. Ltd. of Rs. 1,00,00,000/- and Rs. 1,50,00,000/- respectively. During the assessment proceedings,*

*after analyzing the fact, the AO found the impugned loan transactions to be non genuine, therefore, he made addition of the same. During the appellate proceedings, a remand report was called for from the AO to investigate or conduct verification/inquiry in respect of the loan creditors. However, even after giving seven reminders to the AO, no reply has been received so far, whereas, the appellant has submitted all the relevant details to prove identity, credit worthiness and genuineness of the transactions. It was submitted that the transactions with the above mentioned two persons were genuine. In this regard, loan confirmation, copies of bank statement of the loan creditors as well as the appellant, copies of audited accounts of the parties concerned alongwith copies of IT returns filed, certificate from the bank confirming the repayment of interest and principal amount to those parties, TDS certificate showing that tax was deducted on payment of interest, copies of balance sheets, proof of those companies being registered as non banking financial corporation, copies of Form 3D part II Annexure-A showing that these parties had earned substantial interest income from advancing loans, copies of various documents filed with ROC by those companies etc. were filed. After going through the facts and circumstances of the case and submission of the appellant, I find merit in the argument of the appellant that to prove any loan transaction to be genuine, the appellant has filed all the relevant details by which the identity, credit worthiness and genuineness of the transaction was proved. The AO was given sufficient time to inquire/verify/investigate about the genuineness of the relevant companies and the loan transactions shown with them, however, even after giving seven reminders to the AO, so far, no outcome of the investigation was reported. Under these circumstances, after careful consideration of the facts and details/documents filed by the appellant, I am of the considered view that the appellant has proved the identity, credit worthiness and genuineness of the loan transactions, they had with both the companies, whereas, the AO has not brought any material on record to controvert the submission/details filed by*

*the appellant. In view of above discussion, the AO is directed to delete the addition."*

11. We have gone through the entire factum of the case and find that the assessee has discharged the primary onus casted upon him before the Assessing Officer by the way of filing confirmations, bank accounts, audited accounts, certificates from the bank regarding the interest received, copies of the TDS certificates regarding the interest paid, NBFC status of the lender companies. Further, the details filed by the assessee showed that the company has received interest as under:

<i>NAME</i>	<i>31.03.2010</i>	<i>31.03.2011</i>
<i>M/s Coorg Vincom Pvt. Ltd.</i>	<i>117240</i>	<i>6102383</i>
<i>M/S Pat kin Tracorn Pvt. Ltd.</i>	<i>4948267</i>	<i>9483754</i>

12. The Assessing Officer conveniently ignored the receipt of the interest by the lender companies. Further, having received all the documents, the Assessing Officer has not brought anything on record or conducted any investigations to prove that the documents filed are not genuine. The revenue has not responded to the reminders issued by the Id. CIT (A) with regard to bringing any evidences or disputing and countering the evidences filed by the assessee.

13. On merits of the case, since the Id. CIT (A) has given relief based on the discharge of onus by the assessee who cogently fulfilled the obligations casted upon by the Act and the revenue has not brought about anything contra, hence, we decline to interfere with the order of the Id. CIT (A). With regard to the non-compliance to the seven reminders issued by the Id. CIT (A) to the field authorities, we decline to comment and leave

the matter to the discretion of the administrative authorities at this juncture.

14. In the result, the appeal of the revenue is dismissed.

Order Pronounced in the Open Court on 26/03/2021.

Sd/-

**(Suchitra Kamble)**  
**Judicial Member**

**Dated: 26/03/2021**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**