

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'F': NEW DELHI
(Through Video Conferencing)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.4211/Del/2017
Assessment Year : 2012-13**

M/s Plutus Industries Pvt. Ltd. Vs. Income Tax Officer, C-14, Ground Floor, Tagore Garden Extn, New Delhi-110027 PANAAECP3075F	Ward-20(1), Room No.218, C.R. Building, New Delhi-110002
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(Appellant)

(Respondent)

Appellant by	:	Mrs. Premlata Bansal, Adv.
Respondent by	:	Smt. Sushma Singh CIT-DR

Date of hearing	:	13.04.2021
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Date of pronouncement	:	16.04.2021
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ORDER

PER R.K. PANDA, AM :

This appeal filed by the assessee is directed against the order dated 25.04.2017 of the learned CIT(A)-36, New Delhi, relating to Assessment Year-2012-13.

2. Although a number of grounds have been raised by the assessee, these all relate to the ex-parte order of the learned CIT(A) in sustaining addition of Rs.1,36,39,191/- made by the Assessing Officer u/s 68 of the Act on account of unsecured loan.

3. Facts of the case, in brief, are that the assessee is a company, engaged in the business of import/trading of mobile phones. It filed its

return of income on 30.09.2012, declaring total income of Rs.1,70,200/-. During the course of assessment proceedings, the Assessing Officer noted that the assessee has received unsecured loan amounting to Rs.10,41,999/- from Sh. Akshay Mahajan (Director), Rs.1,24,97,192/- from Sh. Anuj Mahajan (Director) and Rs.1,04,789/- from Sh. Dev Raj Mahajan (Director). He asked the assessee to file the relevant details like ITR, saving bank account copy and copy of TDS etc. in respect of the Directors for the relevant period. The assessee filed the relevant details. Thereafter, the Assessing Officer asked the assessee to substantiate the identity and creditworthiness of the Directors/loan creditors and genuineness of the transactions. Although, the assessee proved to the satisfaction of the Assessing Officer regarding the identity of the directors, however, according to the Assessing Officer, the assessee failed to substantiate to establish the creditworthiness of the Directors/loan creditors as well as the genuineness of the transactions. He, therefore, made addition of Rs.1,36,39,191/- to the total income of the assessee u/s 68 of the Act.

4. Since, the assessee did not appear before the learned CIT(A), the learned CIT(A) in the ex-parte order passed by her sustained the addition made by the Assessing Officer.

5. Aggrieved with such order of the learned CIT(A), the assessee is in appeal before the Tribunal.

6. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and CIT(A) and the paper book filed on

behalf of the assessee. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case made addition of Rs.1,36,39,191/- u/s 68 of the Act in respect of unsecured loan obtained by the assessee from three directors on the ground that the assessee failed to substantiate with evidences to his satisfaction regarding creditworthiness of the three directors and the genuineness of the transactions. We find the learned CIT(A) sustained the addition made by the Assessing Officer, since, the assessee did not appear before her to substantiate the creditworthiness of the directors and the genuineness of the transactions. It is the submission of the learned counsel for the that adequate opportunity was not granted by the learned CIT(A) and given an opportunity, the assessee is in a position to substantiate with evidences to the satisfaction of the learned CIT(A) regarding the creditworthiness of the Directors and the genuineness of the transactions. It is the submission of the learned DR that despite five opportunities granted by the learned CIT(A), the assessee did not appear before her and file the requisite details to substantiate the creditworthiness of the loan creditors and the genuineness of the transactions and therefore, the order of the learned CIT(A) should be upheld.

7. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore this issue to the file of the learned CIT(A) with a direction to grant one final opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the learned CIT(A) to substantiate its case without seeking any adjournment under any pretext

failing which, the learned CIT(A) shall be at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order was pronounced in the open court on 16.04.2021.

Sd/-

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

(R.K. PANDA)
ACCOUNTANT MEMBER

Delhi/Dated- 16.04.2021

Shekhar

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

By Order

Assistant Registrar,
ITAT, Delhi