

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F" NEW DELHI
(Through Video Conferencing)

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND MS. MADHUMITA ROY, JUDICIAL MEMBER

आ.अ.सं./I.T.A. No.2895/Del/2011
निर्धारणवर्ष/Assessment Year 1992-93

ACIT Circle 23(1), Room No. 190, C.R. Building, I.P. Estate, New Delhi.	बनाम Vs.	Ravi Goel Legal Heir of Lt. Sh. S.P. Goel, S-347, Greater Kailash-II New Delhi.
		PAN No. AAGPG7134D
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

राजस्वकीओरसे /Revenue by	Smt. Sushma Singh, CIT DR
निर्धारितीकीओरसे /Assessee by	Sh. S.K. Chaturvedi, CA

सुनवाईकीतारीख/ Date of hearing:	12.08.2021
उद्घोषणाकीतारीख/Pronouncement on	17.08.2021

आदेश /O R D E R

PER MADHUMITA ROY, J.M.

1. The instant appeal filed by the Revenue is directed against the order dated 31.03.2011 passed by the Ld. CIT(A)-XXIII, New Delhi arising out of the order dated 24.12.2009 passed by Ld. ACIT, Circle 23(1), New Delhi u/s 144(1)/254 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 1992-93 with the following grounds:

- 1 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.5,69,500/- made by AO on account of 10% of GP rate on the total turnover.
- 2 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.9,50,000/- made by the AO on account of unexplained investment.
- 3 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.18,11,000/- and Rs.13,45,750/- made by AO on account of unexplained investment
- 4 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.12,49,000/- made by the AO on account of cash sale of agricultural implement.
- 5 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.15,08,644/- made by the AO on account of lifting the goods from custom authorities.
- 6 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.18,52,910/- made by the AO on account of speculative profit earned from sale of shares.
- 7 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.1,50,000/- made by the AO on account of cash deposited in the bank.
- 8 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.2,39,000/- made by the AO on account of unexplained cash deposit.
- 9 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.44,85,420/- made by the AO on account of closing stock.
- 10 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.40,91,098/- made by the AO on account of G.P.rate @ 20%.
- 11 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.13,99,170/- made by the AO on account of notional interest.
- 12 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.1,00,000/- made by the AO on account of expenditure on traveling.
- 13 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.6,00,000/- made by the AO on account of creditors.
- 14 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.6,00,000/- made by the AO on account of cash deposit.
- 15 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.2,95,000/- made by the AO on account of unexplained cash deposit.

16 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.13,03,279/- made by the AO on account of loans and advances.

17 On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.28,26,860/- made by the AO on account of difference in books of accounts.

18 The appellant craves leave to add, alter or amend any of the grounds of appeal before or during the course of hearing of the appeal.

2. A search and seizure action u/s 132 of the Act was carried out on 14/15th September, 1994. Initially the assessments were framed by and under the order dated 13.12.2008. However, the Ld. Tribunal was pleased to restore the matter to the file of the Ld. Assessing Officer upon which the assessment order was passed on 24.12.2009 with certain additions. During the appellate proceeding the Ld. CIT(A) finally upon issuing remand reports first dated 20.12.2010 and the other dated 23.03.2011 finally deleted certain additions made by the Ld. AO. Hence, the instant appeal before us.
3. It is relevant to mention that the books of account of the appellant were not found during search, the appellant explained that these were lost and the complaint was lodged on 13.11.1992 with the police authorities, copy whereof is also appearing at page 19 of the Paper Book filed before us.
4. We have heard the rival submissions made by the respective parties. We have also perused the relevant materials available on record including the remand reports forming part of the paper book at page nos. 10 to 18.

Deletion of addition of Rs. 5,69,500/- being 10% of profit on goods directly lifted by the other parties is the issue before us. In fact these goods were directly lifted by the parties from the Custom Authorities. The Ld. AO made addition of Rs. 5,69,500/- and 10% profit on it at Rs. 5,69,500/-. The Ld. CIT(A) deleted both the additions. However, it appears from the order passed by the Ld. AO that the concerned parties have made affidavit and no adverse evidence was brought on record to disbelieve the statement made in those affidavits. Further that, upon perusal the copies of agreements between the assessee and the three parties clearly show that no margin or profit was to be charged by the assessee in respect of the goods lifted by these three parties. The agreement with the parties, the affidavits, confirmation and appellant letter filed before the AO the appellant's letter for personal presence of the parties lifted goods are part of the records lying before us. The Ld. AO observed that these documents were not produced before us though the same was in fact produced during the original assessment. In that view of the matter, the Ld. CIT(A) found no basis to make this addition. Since the assessee has discharged its onus by producing the entire set of documents/evidence as mentioned hereinabove and in the absence of any adverse evidence relied upon by the Ld. AO. The Ld. CIT(A) finally deleted the addition of Rs. 5,69,500/- which according to us is of no ambiguity so as to warrant interference and hence, this ground of appeal preferred by the Revenue is found to be *devoid* of any merit and thus,

dismissed. The deletion of addition of Rs. 9,50,000/- on account of unexplained investment has been challenged before us. The fact culled out from the records that the assessee explained the goods lifted from Custom Department to the tune of Rs. 9,50,000/- by filing confirmation of Steelex International detailing the manner in which goods had been lifted by paying the said amount from their bank account being no. 2250 of Synd Bank, Nariman Point, Mumbai. The assessee along with the said confirmation and bank statement is also available being part of the Paper Book filed before us. It is the goods of the Ld. AO that he could not verify the details and thus, made additions the Ld. CIT(A), on the other hand, deleted such addition on the ground that confirmation was already filed and the Ld. AO has also failed to bring any adverse evidence on record to reject such contention of the appellant which, according to us is just and proper and without any ambiguity so as to warrant interference. Hence, this ground of appeal filed by the Revenue found to be *devoid* of any merit and thus, dismissed. The addition of Rs. 18,11,000/- and Rs. 13,45,750/- as unexplained investment has been challenged before us by the Revenue. Upon verification of the document, it was found that the assessee has made payment of Rs. 1 crore and 61.1 lakh on 15.05.1991 and 31.05.1991 respectively to the Customs Authorities. Upon perusal of the Bank Statement it was seen that the assessee made a bank draft of Rs. 21,02,500/- on 09.05.1991 from his Synd. Bank account no. 323. Before making it there were various credit entries which the assessee was

directed to explain. The explanation rendered by the assessee was not found sufficient and thus, an amount of Rs. 18,11,000/- has been added us 68 of the Act. The Ld. AO further found that before making the draft of Rs. 20,11,00,000/- from Hong Kong Bank there were several credit entries. The assessee's explanation in this regard was not found sufficient and, therefore, Rs. 13,45,750/- was added to the total income of the assessee. However, there was an arithmetic mistake in calculating Rs. 1800000/- which should have been 1702500/- (2102500 - 400000). The Ld. CIT(A) during the appellate proceeding went through the cash flow statement prepared on the basis of the copies of seized material taking into account the opening cash balance, bank withdrawals which is also made available before us being part of the Paper Book. Apart from that in the remand report dated 27.10.2010 available at page 10 to 15 of the PB so filed before us. The Ld. AO admitted such facts and the documentary evidences filed in its explanation of the sources of funds by the assessee and hence, the Ld. CIT(A) deleted both the additions. According to us, there is no ambiguity in making such decision made by the Ld. CIT(A). Hence, the said is hereby confirmed. This ground of appeal preferred by Revenue fails.

The deletion of addition of Rs. 12490000/- on account of cash sale of agricultural equipment has been challenged before us. The assessee's case is this that the cash flow compiled from the copies of the seized

material and the Department has no seized material in that situation the appellant cannot be penalized without any adverse evidence regarding the availability of cash sales. According to him the cash sale of agricultural equipment shown at Rs. 1302800/- could not be accepted and thus, the difference of Rs. 3050000/- and the explained source of Rs. 2001000/- has been added u/s 68 of the Act. The Ld. CIT(A) while allowing the appeal alongwith this ground of appeal relied on the basis of the documents, facts and the remand report and further observed that the cash flow cannot be suspected in the absence of any adverse evidence relied upon by the Ld. AO which according to us is without any ambiguity so as to warrant interference. This ground of appeal is allowed.

6. The deletion of addition of Rs. 1508644/- made by the AO on account of lifting the goods from the Custom Authorities is the subject matter before us. It appears from the records that the copy of the audited profit and loss account along with the other relevant documents have been filed by the assessee before the Assessing Officer. The Ld. AO vide para 4.B.1 has mentioned that the balance amount of goods lifted from customs has not been accounted for in books of accounts, thus 10% of the goods at Rs. 15086440/- (20776940 - 5690500) is estimated as profit/income of the assessee. The AO has not mentioned anything except that this purchase was not accounted for without any evidence at all. In spite of having all

seized material and the documents of Customs Authorities the AO has not verified the same. Neither has given any adverse comment on the audited profit and loss account. Ld. CIT(A) in his order in para 13 has categorically mentioned that all above grounds are being discussed for the source of funds for lifting the goods from Customs and the appellant has already shown purchase in profit and loss account at Rs. 20260309/- In that view of the matter, the conclusion made by the AO that the said sales had not been reflected in the books of accounts of the assessee is without any basis and application of GP rate on the presumed sales outside the books of account leading to addition of Rs. 1508644/- has been rightly found to be unsustainable in the eye of law by the Ld. CIT(A). Hence, the same is hereby confirmed. This ground of appeal filed by the Revenue is found to be *devoid* of any merit and hence, dismissed.

7. The addition of Rs. 1852910/- made by the AO on account of specularity profit earned from sale of shares is the issue before us. The said speculation profit on forward transactions which were carried forward in these assessment years and completed in the AY 1993-94 without actual profit/loss was granted for. In fact the Ld. AO rejected the contention of appellant that these were factually forward transactions in shares of Reliance Industries Ltd., during the year under appeal, the same were carried forward and the broker M/s Pradeep Bhall & Co. has calculated

the notional profit on these transactions. The AO only considered the date of bill which was of this year showing notional sale value at Rs. 1960000/- and 3650000/- and notional profit of Rs. 162910/- carried forward on 28.03.1992 and Rs. 1690000/- carried forward on 19.04.1992.

8. The case of the assessee is this that these were forwarded transactions, profit and loss is determined when the transaction gets finality otherwise carried forward with notional profit/loss and charges are debited by broker as badla. The bills and the conciliation with Sh. Pradeep Bhalla & Company has also been perused by us. Finally we find the Ld. CIT(A) in his order in Para No. 14 and 15 has deleted the addition on the basis of remand report and the facts that these were speculative transactions and this year these were carried forward and got finality in subsequent year i.e. AY 1993-94, he has referred the Ld. CIT(A) order for AY 1993-94. We do not find any ambiguity in such observation and decision made by the Ld. CIT(A) and hence, the same is hereby confirmed. This ground of Revenue is thus, dismissed.
9. The addition of Rs. 1500000/- as cash deposited in account on 11.05.1991 is the issue before us. The said amount deposited in the bank was not explained by the assessee and thus, the ld. AO added the same to the total income of the assessee. We have perused the cash flow statement available at page 36 of the Paper Book filed before us which reflects that

there were sufficient cash available as on 30.04.1991 and also the sufficient explanation was made by the appellant. Hence, the Ld. CIT(A) deleted such addition. Hence, according to us the Ld. CIT(A) has rightly deleted the same. In that view of the matter, ground preferred by the Revenue is found to be *devoid* of any merit and hence dismissed.

10. The addition of Rs. 239000/- on account of unexplained cash deposit is the issue before us. The Ld. AO added the same on the pretext that the same remained unexplained in the absence of books of account and other evidences. The First Appellate Authority on the basis of the evidences adduced by the assessee which is also made available before us deleted such addition which according to us is just and proper. Hence, this ground of appeal preferred by the Revenue fails.
11. The deletion of addition of Rs. 4485420/- on account of closing stock has been challenged before us. The assessee had shown in its Profit & Loss Account sales to the amount of Rs. 44011886/- on which GP of Rs. 4908902/- has been shown. Information was obtained from the Sales Tax Authorities. It was seen that before the UPST, Authorities the sales were shown at Rs. 3913620/- and for CST at Rs. 23319204/- as against the sales of Rs. 44011886/- shown to the Department. The assessee was asked to reconcile and explain the discrepancy. The assessee along with its letter dated 20.02.95 have enclosed the sales shown to the Sales Tax

Department and to the Income Tax Department.

12. The Ld. AO ultimately made addition on the basis of Auditor's Report; according to the AO the report did not give quantitative details and Annexure A7 of seized documents. The assessee has not taken into account the closing stock of tin plate at 224.271 ton. The assessee's case is this that the details of closing stock as furnished by the assessee was not taken into consideration by the AO while making valuing the closing stock. Further that this quantity of 224.271 ton empty was already taken into account for calculating value of closing stock as per consistently followed policy of valuation, lower of cost or market value. The Ld CIT(A) while deleting the addition observed as follows: -

“the assessee had shown an outstanding loan to Plaza Panchsheel properties at Rs. 4405455/- as on 31.03.92 whereas in the previous year it was Rs. 10405455/-. Assessee filed confirmation from Plaza Panchsheel Properties that the sum of Rs. 60 lacs had been returned to the assessee and the Panchsheel Properties in the earlier years but no interest had been shown in the copy of accounts of Plaza Panchsheel Properties for this year. Assessee further stated that the recovery of loan from the above party was doubtful and, therefore, interest has not been charged, it would be pertinent to note that M/s Plaza Panchsheel Properties is owned by the husband and father in law of assessee's daughter as stated by Sh. S.P. Goyal during the course of search proceedings in his statement. No evidence regarding any disputed in respect of loan or interest has been filed. The interest income was being shown by the assessee in the earlier years.”

13. Thus, it appears from the above, the Ld. CIT(A) deleted the addition on the basis of facts, documents and remand report from the AO on the ground that the appellant has included this quantity while calculating the value of closing stock which is proper and thus, confirmed. This ground of appeal preferred by the Revenue fails.

14. The deletion of addition of Rs. 4991098/- made by the AO on account of GP rate at 20% has been challenged before us. The assessee declared sale in the profit and loss account at Rs. 4400886/-, whereas as per intimation from Sales Tax Department, it was sum of Rs. 3913620/- and CST of Rs. 23319204/- it was submitted by the assessee that figures intimated by the Sales Tax Department was the taxable sales, whereas in audited accounts the total sale included exempted one is also included. Further that the sale declared at Rs. 44011886/- was duly verified and audited neither the AO was having any adverse information or material to reject but on the basis of the information for the Sales Tax Department regarding sales, which was much lessor the sales declared rejected the sales as per audited statements and estimated the sale at 4.50 crore and GP was calculated at 20%; but difference of actual GP to the tune of Rs. 4091098/- was added to the total income of the assessee by the Ld. AO. While allowing the appeal preferred by the assessee the Ld. CIT(A)

observed as follows: -

“41 I have considered the facts of the case and it is seen that the appellant had clearly explained the discrepancy of turnover shown in the sales tax return vis-à-vis the income tax return. The turnover as recorded in the books of accounts of the assessee at Rs. 44011886/- is much more than the turnover as per the sales tax return. The difference has been explained by the assessee on the ground that turnover in the sales tax return does not include the sales of exempt items of sales like agricultural implements, export sales. The Assessing Officer despite this logical explanation, proceeded to apply a GP rate of 20% on an estimated turnover of Rs. 4,50,00,000/- without bringing on record any sound reasoning for doing the same. There is no reason why the turnover at Rs. 4,40,11,886/- and GP rate as declared by the assessee should be rejected to estimate the turnover at Rs. 4,50,00,000/- and apply any other GP rate say 20%. The addition so made, therefore, deserves to be deleted.”

15. Thus, it appears from the above that the Ld. CIT(A) deleted the addition on the basis that the sales as per audited profit and loss account is much more than the sales as per Sales Tax Department because the exempted sales are not included in sales tax returns. Therefore, the estimation is not correct. Regarding GP of 20%, the Ld. CIT(A) mentioned that despite logical explanation the estimation of turnover at 4.50 crore and 20% GP without bringing on record any sound reasoning for doing the same. There was no reason to reject the actual sale of Rs. 44011886/- and GP of 11.15% as of against the Ld. CIT(A) which according to us is without any ambiguity so as to warrant interference and hence, this ground of appeal preferred by the Revenue is found to be *devoid* of any merit and thus,

dismissed.

16. Deletion of addition of Rs. 1399710/- made on account of notional interest on loan outstanding has been challenged before us by the Revenue.

17. The facts culled out from the assessment order is this that

During the current years also interest @ 15% is calculated and disallowance of Rs. 13,99,170/- made. Ultimately interest @ 15% was calculated to the tune of Rs. 1399170/- and the same was added to the total income of the assessee. During the First Appellate Authority the assessee submitted the same.**typed**.....

18. The Ld. CIT(A) while deleting the addition observed as follows: -

{44} I have considered the Assessing Officer's observation before making addition in this regard. It is apparent that there is some mistake in arriving at the addition of Rs. 13,99,170/- being 5% of the loan advanced. The Assessing Officer has also recorded in the order that amount of Rs. 60 lacs had been returned by M/s. Plaza Panchsheel Properties during the year under consideration, which means that even for argument purposes, no interest was due to the assessee with respect to this amount from the date of receipt of Rs. 60 lacs. Assessee has submitted that the loan was advanced to M/s. Plaza Panchsheel Properties Pvt. Ltd. in Financial Year 1986-87 and the assessee had been charging interest on the said amount @ 15% till 89-90, but thereafter the financial condition of M/s. Plaza Panchsheel Properties was not sound so as to endanger the principle amount loaned. In view of this, no interest was charged from Financial Year 1991-92 onwards and an amount of Rs. 60 lacs was received from the said party in the following manner:-

<u>Date</u>	<u>Amount</u>
25.01.92	15 lacs
03.02.92	20 lacs
05.02.92	<u>25 lacs</u>
	<u>60 lacs</u>

It was further submitted that the case of the assessee for Financial Year 1993-94 & 1994-95 was assessed under section 143(3), wherein no addition on the issue of non-charging of interest in respect of amounts outstanding from M/s. Panchsheel Properties Pvt. Ltd. was made. It was also submitted that the balance amount was outstanding from the said party till date because of financial difficulties at their end and therefore, the return of principle amount itself is a matter of concern.

19. It appears from the above that the Ld. CIT(A) while deleted notional addition took into consideration this particular aspect of the matter that the Ld. AO has not given any weightage to the circumstances detailed by

the assessee that the interest had to be weived to secure the principle. No document was further found during the search to suggest that the assessee had received the interest amount outside the books of account as of the observation made by the Ld. CIT(A) while deleting such addition is according to us just and proper and we hereby confirm the same. The ground of appeal filed by the Revenue fails.

20. The addition of Rs. 1 lakh made on estimate basis is the subject matter before us. This is nothing but on the basis of the voucher containing payment of Visa charges by Vandana Goyal from whose residence the same has been seized. The Ld. CIT(A) while deleting such addition observed as follows: -

{55} The appellant in his submissions has given the following explanation:-

"The addition represents interest amounting to Rs. 74256/- only. This is taken from our 2 seized documents which were mere account statement of the parties in rough form. There is no signature of any person on the sheets. We never earned any interest. In earlier years also no interest was charged or relised. We have not charged any interest from these persons. The addition is absolutely hypothetical and no cogent material has been adduced by the AO before making the addition. No addition in this respect is made by the AO in Assessment years 1994-95 & 95-96."

21. Thus, it appears that the voucher which was seized from the residence of Ms. Vandana Goyal was at Rs. 20858/- being the Visa charges of our travelling and thus, the same was rightly deleted by the Ld. CIT(A). The same is thus, hereby confirmed. This ground of appeal preferred by the

Revenue, therefore, fails.

22. The deletion of addition of Rs. 6 lacs made on account of creditors has been challenged before us. The facts culled out from the AO's order that out of Rs. 6984000/- as has been shown as outstanding creditors by the assessee. The assessee filed confirmation from all parties except those of M/s M.B. Enterprises Rs. 150000/- and M/s Anand International Rs. 450000/-. Hence, the same are added to the assessee's total income Rs. 600000/-.
23. The Ld. CIT(A) deleted the addition while doing so. He has relied upon the judgment passed in the matter of Sugauli Sugar Works Ltd., 236 ITR 518 (SC). According to us, there is no ambiguity in such order passed by the Ld. CIT(A). Hence, we confirm the same.
24. In that view of the matter, this ground of appeal preferred by the Revenue fails.
25. The fact culled out from the AO's order such addition has been made on the fact of depositing amount of Rs. 3 lacs each to the bank account. The addition was made rejecting the cash flow based upon the documents including sales of agricultural equipments at Rs. 813000/-. While deleting the addition the Ld. CIT(A) observed as follows: -

{91} I have considered the basis of addition made by the Assessing Officer and it is seen that the Assessing Officer has rejected the cash flow statement submitted to him by the appellant on the ground that no evidence of cash sales has been submitted. However, it is a matter of record that out of total turnover of Rs. 4,40,11,886/-, an amount of Rs. 1,19,35,611/- represents sales in cash of agricultural implements. Further, the cash sales in February, 1992 amounts to Rs. 8,13,000/- and therefore, the same have to be taken into consideration for making the cash flow chart for the relevant month. It is further matter of record that the bills evidencing sales in cash had been seized by the Department during search operation and the assessee had only relied on the photocopies taken to make the cash flow statement to explain the deposit of cash in the bank account. Thus, the Assessing Officer's observation in this regard is erroneous as the same ignores the fact of cash sales which is part of the turnover as per books of accounts. As such, addition of Rs. 6 lacs is deleted.

26. Thus, it appears that the Ld. CIT(A) while deleting the addition mentioned that the appellant has shown total sales of Rs. 11935611/- of agricultural equipment during the year 1992 and the AO cannot reject the cash flow on the basis of cash sale of agricultural equipments at Rs. 813000/- in the month of February, 1992. The reasons so recorded while deleting the addition by the Ld. CIT(A) seems to be adequate and hence, the same is confirmed. This ground of appeal preferred by Revenue is found to be *devoid* of any merit and thus, dismissed.
27. The addition of Rs. 295000/- is a subject matter before us. The AO rejected the contention of the assessee that the said amount was deposited out of cash balance available with the assessee out of cash

sales, whereas the appellant has shown total sale of Rs. 11935611/- of agricultural equipment during the year 1991-92 and, therefore, the observation made by the AO found to be erroneous as made by the Ld. CIT(A) is without any ambiguity and thus, the same is hereby confirmed. The ground of appeal filed by Revenue fails.

28. The deletion of addition of Rs.13003279/- on account of interest at 18% of loans and advances has been challenged before us by the Revenue. The AO disallowed the said sum of interest on outstanding loans and advances amounting to Rs. 7240435/- which was deleted by the Ld. CIT(A) following the order passed by the Ld. Tribunal in assessee's own case in ITA No. 588/Del/1995 for AY 1991-92 the relevant portion where of is as follows: -

{97} I have considered the basis of addition made by the Assessing Officer and the explanation of the appellant reiterating the stand that the funds advanced without interest are not from the funds borrowed on interest. It has also been that similar addition made in Assessment Year 1991-92 was deleted by the Hon'ble ITAT by making the following observations:-

"9.3 We have heard the learned representative of the parties, also gone through the relevant record and perused the paper book. While the assessee is showing interest income of Rs. 22,98,869/-, he claimed an expenditure of Rs. 17,87,839/-, out of which a sum of Rs. 17,05,334/- is entirely on loans

raised from bank of Maharashtra including brought forward loans of Rs. 2,08,53,626/-. The assessee is also having interest free funds far exceeding the amount advanced to the parties alleged as non-business advances as per details on page 128 already referred to above. This being the position, it cannot be held that the assessee had advanced interest bearing borrowing to the parties involved. We, therefore, are of the view that no addition on this account was called for. Thus, ground No. 14 is allowed."

The perusal of explanation given by the assessee shows that amounts outstanding as advance in respect of Sonal Steel Corporation to the tune of Rs. 30,75,000/- represents the transaction of sale by the assessee to the said concern and the amount outstanding is actually on account of the realization to be made of the sales amount. The confirmation of Sonal Steel Corporation dated 26.4.1991 filed by the assessee confirming the detailed transaction of purchases, part payment made to the tune of Rs. 40 lacs has been recorded. The above said amount therefore, cannot be treated as advance free of interest. Further, an amount of Rs. 33,88,250/- in respect of M/s. Goyal Estate & Promoter has been submitted to be in respect of the advance for purchase of property. It is further seen that the loan borrowed from the bank has roughly remained at the same level, as the loan from bank as on 31.3.91 was Rs. 2,89,84,981/- and as on 31.3.92 it was Rs. 3,02,63,140/-. In view of the above, the observation of the Assessing Officer is erroneous on facts and therefore, no disallowance of interest paid to the bank is called for. The same is therefore, deleted.

29. Thus, we do not find any reasons to interfere with the order passed by the Ld. CIT(A) in the absence of any changed circumstances. The same is hereby confirmed. The ground of appeal preferred by Revenue is, thus, found to be *devoid* of any merit and hence dismissed.
30. The deletion of addition of Rs. 2826860/- has been challenged before us by the Revenue. The fact culled out from the assessment order is this that the assessee had shown debit of Rs. 2157795/- with one Sh. Pradeep

Bhalla & Company and showed the credit balance of Rs. 3280655/-. These differences of the said amount have been added to the total income of the assessee. Since, the same was not reconciled by the assessee as of the observation made by the Ld. AO. However, fact remains that during assessment the reconciliation was filed to explain the difference of balances. The AO did not consider the same and the facts that in addition of Rs. 1852910/-, the notional speculation profit on forward transactions was carried forward and Rs. 1000000/- was paid by account payee cheque from Bharat Tin Udyog, the concern of wife of Late Shri S.P. Goel. No gain accrued to the appellant. The gain/loss were duly accounted for on the basis of finality of transaction.

31. The Ld. CIT(A) while deleting the addition observed as follows: -

{100} It is seen that the Assessing Officer has not accepted the reconciliation filed by the appellant by making the observation that it was not understood as to how this reconciliation was made, especially when the assessee had no books of accounts as the same have been lost. However, the perusal of reconciliation shows that the same has been prepared entirely from the bank account maintained by the assessee and the copy of account of M/s. Pradeep Bhalla & Co. The entry of Rs. 10 lacs in respect of payment made by Bharat Tin Udyog is from the bank account of the concerned assessee and therefore, there is no doubt about that. Further, an amount of Rs. 16,90,000/- and Rs. 1,62,910/- represent the notional profit on account of speculative transactions carried out by the assessee through M/s. Pradeep Bhalla & Co. and the shares of Reliance Inds. Ltd. As such, the reconciliation to explain the difference between the outstanding balance in the books of accounts and as per the copy of account of M/s. Pradeep Bhalla & Co. is satisfactorily explained as detailed above. The addition made, therefore, deserves to be deleted.

32. Thus, it appears that the Ld. CIT(A) deleted the addition on the basis of the reconciliation filed by the assessee before the AO and before him as well without any ambiguity so as to warrant interference. Hence, the appeal preferred by the Revenue is found to be *devoid* of any merit and thus, dismissed.
33. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 17/08/2021.

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Dated: 17th August, 2021
*Kavita Arora, Sr. P.S.

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard
file of ITAT.

By order
Assistant Registrar, ITAT: Delhi Benches-Delhi