

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH : BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.263/Bang/2017
Assessment year : 2013-14

The Asst. Commissioner of Income-tax, Circle-2(2)(1), Bengaluru.	Vs.	Shri K.S Venkatesh, No.29, West Park Road, Malleshwaram, Bengaluru-560 003. <b>PAN – AAWPV 6580 E</b>
APPELANT		RESPONDENT

Assessee by	:	Shri Narendra Sharma, Advocate
Revenue by	:	Dr. Manjunath Karkihalli, CIT(DR)

Date of hearing	:	10.11.2021
Date of Pronouncement	:	10.11.2021

**ORDER**

*Per Chandra Poojari, Accountant Member*

This appeal by the Revenue is directed against the order of the CIT(A)-2, dated 30.03.2016. The relevant assessment year is 2013-2014.

2. The Revenue has raised following grounds of appeal:-

- “1. The assessee engaged in business of Money Lending, Travel agents and Tour operators. The assessee filed his return of income for the A.Y. 2013-14 declaring the total income of Rs. 1,49,86,120/-.*
- 2. The case was selected for scrutiny reasons being "Large increase of unsecured loans" and "unsecured loans from persons who have not filed return of income".*
- 3. The assessee was asked to furnish confirmations for unsecured loans of Rs. 8,45,09,249/-. The assessee produced confirmations. Upon verification of the confirmations of unsecured loan, it was found that the confirmations did not contain addresses of the loan creditors. Therefore, the AO was not satisfied with the unsecured loan confirmations.*
- 4. There are factual errors and the assessee did not provide the correct address of the creditors for cross verification. As the genuineness of creditors is not proved beyond doubt, the loan credits of Rs. 8,45,09,249/- should be brought to tax.*
- 5. Also the tax effect is more than monetary limit prescribed as per CBDT guidelines for further appeal.”*

3. The Revenue has also raised following additional grounds of appeal:-

- “1. The CIT(A) erred in allowing the appeal on the ground that the unsecured loans were received through banking channels despite there being no documentary evidence on record*
- 2. The CIT(A) erred in allowing the appeal on the ground that intimations u/s. 143(1) of the creditors for the AY 2014-15 were furnished by the assessee before the AO, whereas in fact the assessee furnished copy of 143(1) for the AY 2014-15 in his own case and not in the case of the creditors.*
- 3. The CIT(A) erred in allowing the appeal on the basis of fresh confirmation letters furnished by the assessee during appellate proceedings without allowing the AO the opportunity to examine the fresh evidence as provided for in Rule 46A of the Income tax Rules*
- 4. The appellant craves leave to add, amend, alter or delete any or all of the grounds of appeal.”*

4. There is no petition for admission of additional grounds, hence, these additional grounds are not admitted.

**The brief facts of the case are as under:-**

4. The AO noticed that the assessee had shown huge unsecured loans of Rs.8,45,09,249/- from persons who had not filed Returns of income. The assessee, during the course of assessment, had filed confirmation letters but the AO was not satisfied, as these did not contain the addresses of the loan creditors. The AO, therefore, was not satisfied with it. According to him, in the absence of proper addresses or returns of income or ledger accounts, the said credits could not be accepted. Although, CPC intimation in respect of asst. year 2014-15 had been filed, the AO was not satisfied as valid confirmation letters indicating the addresses of the loan creditors had not been filed. The AO proceeded to treat the loan credits as not genuine and brought the sum of Rs. 8,45,09,249 to tax as income of the assessee.

5. On appeal, the CIT(A) observed that an amount of Rs.3,60,39,075/- which represents old carried forward balances and not fresh loans. The balance amount of

Rs.6.60 crores outstanding against Shri MMR Shetty and remaining amount of Rs.44,52,777/- (old balance Rs.32,67,777/-) from Shri V Shivaram. The assessee furnished confirmation letters to the AO. However, these confirmation letters does not contain the correct address of the parties, though it contains PAN numbers. Before the CIT(A), the assessee filed the new confirmation letters with proper address. After going through, the CIT(A), observed that the transactions are through banking channels and being a genuine transactions, the identity was proved. Accordingly, the CIT(A) deleted the addition.

6. Against this, Revenue is in appeal before us.

7. We have heard the rival submissions and perused the materials on record. The confirmation letters filed by the assessee before the AO does not have correct address, though assessee given the PAN Number of creditors. If the assessee filed confirmation letters with proper address before the CIT(A) in respect of fresh loans, in our opinion, he should have called for remand report from A.O. In the absence of it, it is appropriate to re-examine the issue at the end of AO, as there was no confirmation letters filed before him. Accordingly, with regard to fresh loans, the

issue is remitted back to the AO for re-examination .  
However, with regard to old carried forward balances,  
deletion of addition of Rs.3,60,39,075/- is justified as it is  
carried forward of old balances and credit not emanated  
in this asst. year under consideration.

9. In the result, the Revenue's appeal is partly allowed  
for statistical purposes.

Order pronounced in court on 10<sup>th</sup> Nov, 2021.

Sd/-

Sd/-

**(N.V VASUDEVAN)**

Vice President

Bangalore,

Dated, 10<sup>th</sup> Nov, 2021

/ vms /

Copy to:

**( CHANDRA POOJARI)**

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.

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3. Date on which the approved draft comes to Sr.P.S  
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before the dictating Member .....
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P.S. ....
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