

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

(Through Video Conferencing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

**ITA No.5028/DEL/2018
[Assessment Year: 2015-16]**

Vinod Kumar Suneja, 786, Gali No.12, Gandhi Colony, Muzafarnagar, PAN-ABZPS2019P	Income Tax Officer, Ward-2(4), Muzaffarnagar-251002
Assessee	Revenue

Assessee by	Sh. Anil Kumar Jain, Adv.
Revenue by	Sh. Om Prakash, Sr. DR

Date of Hearing	01.12.2021
Date of Pronouncement	13.12.2021

ORDER

This appeal filed by the assessee is directed against the order dated 23.05.2018 of the learned CIT(A), Muzaffarnagar, relating to Assessment Year 2015-16.

2. This appeal was earlier decided by the Tribunal vide order dated 27.03.2019. Subsequently, the Tribunal vide MA No.413/Del/2019, order dated 21.05.2021 recalled the order for limited purpose of adjudication of ground of appeal no.3. Therefore, this is a recalled matter.

3. Ground No.3 of the present appeal reads as under:-

“3. The Ld. CIT(A) has erred in confirming the addition of Rs.4,00,000/- u/s 68 on account loan from son.”

4. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 27.08.2015 declaring total income 5,97,830/-. During the course of assessment proceedings, the Assessing Officer noted that the assessee and her husband have jointly purchased a flat in Indra Puram, Ghaziabad (UP) on dated 09.01.2015 amounting to Rs.1,05,00,000/-. However, they have paid stamp duty on Rs.1,45,19,000/-. While explaining the source, the assessee stated that he has taken unsecured loan from four persons to the tune of Rs.26 Lakhs namely Sh. Kanishk Suneja, Sh. Kshitij Suneja, Sh. S.B. Mittal & M/s Vinod Kumar Suneja & Sons (HUF), in which the assessee is karta. The Assessing Officer while accepting the unsecured loan from three parties, however, disallowed Rs.4 lakhs taken from Sh. Kanishk Suneja on the ground that Mr. Suneja was pursuing his study and was not involved in any trade of food grain as claimed by the assessee. According to the Assessing Officer, it was not possible on the part of t Sh. Kanishk Suneja, who was pursuing his

study in Roorkee, to derive income from food grain trading which requires regular involvement. He, therefore, held that the amount taken from Sh. Kanisk Suneja is doubtful and the creditworthiness of Sh. Kanisk Suneja is not established. He, therefore, made addition of the same to the total income of the assessee.

5. In appeal, the ld. CIT(A) upheld the action of the Assessing Officer.

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

7. I have heard the rival arguments made by both the sides and perused the record. I find from the bank account of Sh. Kanishk Suneja, copy of which is placed at page no. 64 to 66 of the paper book that on 11th February, 2015 an amount of Rs.5 Lakhs has been transferred to the assessee Mr. Vinod Kumar Suneja. The ld. Counsel for the assessee clarified that out of the above Rs.5 lakhs, an amount of Rs.1 Lakh was returned to Sh. Kanisk Suneja and the assessee has obtained only 4 lakhs during the year. A perusal of the bank account shows that there is no cash deposit in the bank account. The

balance as on 1st April, 2014 in the bank account is Rs.3,64,181.30/-. Thereafter, there is a credit by clearing on 09th June 2011 of Rs.1,05,000/-, interest of Rs.7848/- on 07th September, 2014, and an amount of Rs.1,80,000/- by clearing on 09th December, 2014 and again an amount of Rs.90,000/- by clearing on 24th December, 2015. Thus, before giving the cheque of Rs.5 lakhs on 11th February, 2015, the balance in the bank account was Rs.5,68,197.54/-. There is no cash deposit in the bank account. Therefore, I am of the considered view that Sh. Kanisk Suneja has the creditworthiness for extending the loan of Rs.4 lakhs to the assessee. I, therefore, set-aside the order of the Ld. CIT(A) and direct the Assessing Officer to delete the addition. Ground no.3 raised by the assessee is allowed.

8. In the result, the appeal of the assessee is allowed.

Order was pronounced in the open court on 13th December, 2021.

Sd/-
[R.K.PANDA]
ACCOUNTANT MEMBER

Delhi; Dated: 13/12/2021

Shetkar,

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi