

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

**Before Sh. A. D. Jain, Vice-President**

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

**ITA No. 6841/Del/2017 : Asstt. Year : 2014-15**

Accentor Infotech Pvt. Ltd., 14B, First Floor, Rohtak Road, Manohar Park, New Delhi-110026 (APPELLANT)	Vs	Income Tax Officer, Ward-1(3), New Delhi (RESPONDENT)
<b>PAN No. AAKCA0931F</b>		

**Assessee by : None**

**Revenue by : Sh. Satpal Gulati, CIT DR**

**Date of Hearing: 07.12.2021**

**Date of Pronouncement: 08.02.2022**

**ORDER**

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

The present appeal has been filed by the assessee against the order of Id. CIT(A)-11, New Delhi dated 12.09.2017.

2. Following grounds have been raised by the assessee:

*"1. That the learned CIT erred in law in rejecting the appeal merely on surmise and conjectures and without any justification for the same.*

*2. That the learned CIT erred in law in ignoring the documentary evidence filed in the Assessment Proceedings the identity, capacity and fact of financing the amount in issue amounting to Rs.40,29,22,500/-. He further erred in considering the issuance of notices u/s. 131 to the financing companies and drawing adverse inference for non-compliance of the notice u/s. 131 against law and facts of the case.*

*3. That the learned CIT erred in law in collecting certain documents relating to the financing companies, at the back of the appellant and in drawing adverse inference without giving any opportunity to the*

*appellant in respect of the documents collected at the back of the appellant.*

*4. That the learned CIT erred in law in relying on certain judgments which on the facts and circumstances of the case are different facts in issue in the case under appeal.*

*5. That the learned CIT erred in law in drawing negative inference from the material referred to in the Appellate Order.*

*6. That the additions of Rs.40,29,22,500/- is illegal and deserves to be deleted.”*

3. The brief facts of the case are that the assessee had filed the Return of Income showing the total loss of Rs. 34,906/-. The assessee company was incorporated with the objective to carry out the business of Software Development. The AO noted that the assessee has shown unsecured loans of Rs.40,29,22,500/- in the balance sheet as on 31.03.2014. The AO asked for the details of the 14 parties from whom these loans were obtained. The AO also issued enquiry letters u/s 133(6) of the Act to these parties in order to verify the genuineness of the loan transactions. From the details furnished, the AO noticed that all these companies are having either Nil or very marginal turnover and the Returned income in most of these cases is a marginal loss or meager profit. The AO has prepared a chart showing these details which is as under:

<b>S. No.</b>	<b>Name</b>	<b>Amount of loan outstanding</b>	<b>Returned Income</b>	<b>Revenue from operations (Rs.)</b>
1	ASL Power Ltd	2,85,000	(0.13)	NIL
2	ASL Steel 5 Power Ltd.	2,61,000	(0.17)	NIL
3	M/s Bluetail Technology Pvt. Ltd.	47,00,000	(0.3)	NIL
4	Desperate Trading Pvt. Ltd,	3,80,66,500	(0.89)	6,027
5	M/s Diksha Viniyog Pvt. Ltd.	16,00,000	(0.15)	NIL
6	M/s Direct Exports Pvt. Ltd.	2,42,60,000	(36.70)	NIL
7	M/s Gnex Projects Pvt. Ltd. (Formely known as ASL Projects Pvt. Ltd.)	19,40,000	(0.32)	NIL
8	M/s Kashi Promoters Pvt. Ltd (Name changed to Ruhil Promoters Pvt. Ltd.)	10,93,00,000	(6.54)	NIL
9	M/s Maa Durga Steel Works Pvt. Ltd	17,48,45,000	2.65	53,82,71,913
10	M/s Mercury Digital Services Pvt. Ltd	1,17,60,000	(0.85)	5,812
11	M/s Pheasant Stamping Pvt. Ltd.	2,53,80,000	(0.85)	8,970
12	M/s Prominent Vyapaar Pvt. Ltd.	24,00,000	(0.10)	
13	M/s Prudential Metaalics Pvt. Ltd.	77,25,000	(0.83)	9,430
14	M/s Sweta Agrochem Pvt. Ltd.	4,00,000	(0.03)	NIL
	<b>Total</b>	<b>40,29,22,500</b>		

4. From the above details, the AO asked the Id. AR to produce the Directors of these 14 companies from whom loans were taken by the assessee. The AR expressed his inability to do so. In view of this, the AO issued summons u/s 131 of the Act in order to record the statements of the Directors of these companies under oath. None of the summons were complied with, although the summons were served on these parties, in respect of which the AO has got postal confirmations. It is also

pointed out by the AO that many of these companies are having common Directors and Auditors and in addition, some of these companies have got common registered addresses.

5. The AO has further pointed out that the assessee company which was incorporated with the objective to carry out business of Software Development, has not undertaken such activity since its incorporation. No sales of the business has been shown and no business expenses have been claimed by the assessee in its financial statements. The assessee has not received any loan from any recognized financial institution/bank but has taken unsecured loans from third parties amounting to more than Rs. 40 crores. It is also observed by the AO that the assessee company is having zero fixed assets. It is also stated by the AO that none of the parties which have given loans to the assessee have any business transactions with the assessee except granting of **Interest free unsecured loans**.

6. Further, the bank statements of these parties show that there are deposits through either cash or cheque just before the amount is transferred as unsecured loan to the assessee. From the balance sheet, P&L account, copies of Income Tax Returns and bank statements, the AO has inferred that all these entities have been incorporated for the purpose of providing accommodation entries only.

7. The directors of these companies were neither produced by the assessee before the AO nor did they present themselves for personal deposition in response to the summons issued u/s 131 of the Act by the AO.

8. Based on the above facts, the AO has arrived at the conclusion that these parties have been established with the sole objective of providing accommodation entries and the creditworthiness of these parties along with the genuineness of the transactions have not been proved and therefore, the AO has treated the unsecured loans as unexplained credits in the books of assessee and has made the addition u/s 68 of the Act. The relevant portion of the assessment order is reproduced as under:

*"8. The AR's were asked to explain the reasons as to why they are not producing the directors of these companies despite various opportunities have already been provided. They were also informed that the details of the companies from whom unsecured loans are claimed to have been received reveal that the creditworthiness and genuineness of the transaction are not proved. Therefore, directors of these companies are required to be examined on oath. None of the corporate entities appeared for their personal deposition with books of account. It would not be out of place to mention here that many of these Companies have Common Directors and Auditors. Further, some of them have common registered addresses.*

*10.A perusal of the records reveals that the assessee co, though incorporated for software development has not earned a single penny from such business since its inception. No sale/expenses for the business for which the assessee company was formed has even been started. This very fact, casts doubt on the business operations of the assessee. No other activity which could be claimed as being related to its business of software development has ever taken place. The assessee co. has received interest free loans of huge amounts which is itself*

*surprising as nobody would give such interest free loans to a concern which has not engaged itself in any kind of business activity. The assessee has not availed/received any loan from any financial institution which is generally the case with companies carrying out business in the right earnest. Thus, by any stretch of imagination, the Genuineness of transaction cannot be established.*

*10. Other very corroborating fact that points out negatively towards business operations of the assessee or at least a desire to do so is that the assessee has ZERO fixed assets. An assessee would at least buy some computer systems and related equipments to start or thinking to start such a business. However, that is not the case here. All the above clearly suggests that the assessee has no intention of real time business but act as an instrument for circulation of funds through unsecured loan and share premium/application money as done in the previous years.*

*11. The position of whatever documents filed is pointed out below.*

*a) Principal Officer/Director of the above company not attended for personal deposition despite repeatedly asked for.*

*b) Complete reply/details as asked for in the above said notice u/s 133(6)/131 not given.*

*c) All such entities which have NIL or marginal revenue have extended huge loans that too without any interest. None of the entities have a direct interest in the assessee co. Still huge amounts of Unsecured & Interest free loans have been advanced. All this point out that the transaction does not satisfy the criterion of genuineness along with creditworthiness.*

*d) In the Bank statement of almost all the entities there are huge debit and credit entries of huge amount. After every credit entry there is debit entry of almost the same amount on the same date or next date leaving a minimum credit balance. In view of the facts stated above the creditworthiness and genuineness of the transaction of alleged unsecured loans claimed to be received from the said parties cannot be said to have been proved.*

*12. From the balance-sheet, P & L account, ITR and copies of their bank statements of all the above mentioned entities and the facts discussed above, it is clearly established that these entities were only engaged in providing accommodation entries, 13, In view of facts as mentioned above as well as the facts that Directors of none of the above mentioned entities appeared for personal deposition in response to the summons and even the assessee company did not produce the directors of these companies with their books of account, it is clearly established that neither their creditworthiness nor genuineness of the transaction can be said to have been proved. The amount of alleged unsecured loan is nothing but assessee's own unaccounted money introduced in the garb of loans required to be added into the income of the assessee u/s 68 of the Income Tax Act 1961 as income from undisclosed sources."*

<b>S. No.</b>	<b>Party</b>	<b>Address</b>	<b>Directors as on 31.03.2014</b>	<b>Auditors</b>	<b>Nature of business</b>
1	ASL Power Ltd	14-8, First Floor, Manohar Park, Rohtak Road, Delhi-110026	Sh M.K Aggarwal Sh Gaurav Aggarwal	M/s Shelly Gupta & Co. (Chartered Accountants)	No business activity during the year under consideration
0	ASL Steel & Power Ltd.	14-B, First Floor, Manohar Park, Rohtak Road, Delhi-	Sh. M.K Aggarwal Sh Gaurav Aggarwal	M/s Shelly Gupta & Co. (Chartered Accountants)	No business activity during the year under consideration
3	Bluetail Technology Put. Ltd.	WZ-5-B.S/F, Room No-3, Manohar Park, East Punjabi	Sh Sanchit Bhasin Sh Rakes hJain	M/s Shelly Gupta & Co. (Chartered Accountants)	No business activity during the year under consideration
4	Desperate Trading Pvt. Ltd,	022. G/F, Manohar Park, ast Punjabi Bagh New Delhi 110026	Sh PremParkash Sh Satish Kumar	M/s Shelly Gupta & Co. (Chartered Accountants)	Steel Trading business company
5	Diksha Viniyog Put. Ltd.	C/ O Tushar Gupta, Rup Bhawan, 7th Floor, 28, Black Jum Lane. Kolkata, West	Sh. M.K Aggarwal Sh Gaurav Aggarwal	M/s Sunil Shandilya & Co. Chartered Accountants)	Investment Company
6	Direct Exports Pvt. Ltd,	WZ-5-B, S/F, Room No-3, Manohar Park, East Punjabi Bagh, Delhi-110026	Sh Abhumanyu Chaudhary Sh Manish Gupta	M/s Sunil Shandilya & Co. Chartered Accountants)	No business activity during the year under consideration
7	Gnex Projects Pvt. Ltd. (Formerly known as ASL Projects Pvt. Ltd.)	PI-31, Second Floor, Room No. -2, Madan Park, East Punjabi Bagh. New Delhi-	Smt. Shakuntla Khemka Sh. Mavank Khemka	M/s Sunil Shandilya & Co. Chartered Accountants)	Real Estate business
8	Kashi Promoters Pvt. Ltd (Name changed to Ruhil Promoters Pvt. Ltd.)	DSIWS38, 5th Floor, DLF Tower, Shivaji Marg, Moti Nagar, New Delhi-110001	Sh Neeraj Ruhil Sh Sanjeev Ruhil	M/s Devendra Dahiya & Co. (Chartered Accountants)	Real Estate & Housing project Business Company

9	Maa Durga Steel Works Pvt. Ltd	F-31, F/F, Madan Park. Ashoka Park Metro, New Delhi-110026	Sh Prem Parkash Sh Harish	M/s Sunil Shandilya & Co. (Chartered Accountants)	Steel Trading business company
10	Mercury Digital Services Pvt. Ltd	6IS, Second Floor, Near Ambedkar Chopal, Shahbad, Daulat Pur Delhi-110042	Sh Rajesh Gupta Sh. Ankit	M/s Sunil Shandilya & Co (Chartered Accountants)	Steel Trading business company
11	Pheasant Stamping Pvt. Ltd.	55, G/F. Shop Gall No-OS, Madan Park, East Punjabi Bagh Near Jai Dev Park, N. Delhi-110026	Sh. Sethuraman Balaji Sh Sher Singh	M/s Sunil Shandilya & Co. (Chartered Accountants)	Steel Trading business company
12	Prominent Vyapaar Pvt. Ltd.	C/O Tushar Gupta. Rup Bhawan, 7th Floor, 28, Black	Sh M.K Aggarwal Sh Gaurav Aggarwal	M/s Sunil Shandilya & Co. (Chartered Accountants)	Investment Company
13	Prudential Metaalics Pvt. Ltd.	9-A.G/F, Chhanna Mai Park, East Punjabi Bagh, New Delhi	Sh Satish Kumar Sh Harish	M/s Sunil Shandilya S, Co. (Chartered Accountants)	Steel Trading business company
14	Sweta Agrochem Pvt. Ltd.	C/O Tushar Gupta, Rup Bhawan, 7th Floor, 28, Black	Sh, M.K Aggarwal Sh. Gaurav Aggarwal	M/s Sunil Shandilya & Co. (Chartered. Accountants)	Investment Company

9. The Id. CIT(A) held that from the above details, it can be seen that these companies have been formed by a group of few persons and the auditors of these companies are also mostly common. Most of these companies are having common addresses also.

10. The Id. CIT(A) held that from the above analysis and fact finding, it is clearly seen that none of the companies who have given loans to the assessee are having any real business activity. All the companies are related to each other in one way

or the other. The bank accounts show that there is frequent transfer of funds amongst these parties. The shareholding pattern is also on similar lines with same persons or companies having shareholding in each other. The individuals related to the one company are somehow engaged with the other companies in some other capacity. None of these companies is having any real business transaction with the assessee company. None of these companies is having the creditworthiness to extend interest free loans to the assessee. The source of funds in these companies is either the money received through share premium or sundry creditors as shown in the balance sheet. The financial statements are nothing but mere formal statements drawn with the purpose of window dressing the real transactions of money laundering. All these companies are nothing but shell companies incorporated with the purpose of routing of funds. The total facts and circumstances as discussed above clearly establish that these loan transactions are nothing more than sham transactions which have been undertaken by use of shell companies.

11. The Id. CIT(A) held that on consideration of the facts of the case discussed in detail in the assessment order and in the above paragraphs along with the documents filed by the assessee, the explanations given by the AR during the course of appellate proceedings, the assessee has not been able to discharge the burden of proof that lay on it, to prove the genuineness of the unsecured loans as well as the creditworthiness of the companies from whom these loans have been obtained.

12. We have gone through the details filed by the parties and also arguments of the revenue. We have also gone through the

details of all the 14 companies which have lent the amounts to the assessee. We have also gone through the details filed by various loan parties before the revenue authorities. After going through the entire details, we hold that the assessee has failed to undisputedly prove the genuineness of the loans or the creditworthiness of the parties. At the same time, the revenue has also failed to conduct complete enquiries to bring much needed evidences on record. Hence, in the interest of justice to both the parties, we deem it proper to remand the matter to the file of the Assessing Officer with instructions to the Supervisory Officers to act in accordance with the provisions of the Income Tax Act in conducting the enquiries. Needless to say, the revenue shall follow principles of natural justice while concluding the proceedings.

13. In the result, the appeal of the assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 08/02/2022.

Sd/-

**(A. D. Jain)**  
**Vice President**

**Dated: 08/02/2022**

\*Subodh Kumar, Sr. PS\*

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**