

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT AND
SHRI B. R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1269/Bang/2019
Assessment Year : 2006-07

Shri. Solor Vishwanath Bharath, No.3/2-7, 1 st Cross Road, M.C.R. Layout, Byanna Industrial Estate, Vijayanagar, Bengaluru – 560 079. PAN : AEXPB 3500 M	Vs.	The Assistant Commissioner of Income Tax, Circle – 6(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Shri. Sankar Ganesh K, JCIT(DR)(ITAT), Bengaluru.

Date of hearing	:	10.02.2022
Date of Pronouncement	:	14.02.2022

ORDER

Per N. V. Vasudevan, Vice President :

This is an appeal by the assessee against order dated 14.03.2019 of CIT(A), Bengaluru, relating to Assessment Year 2006-07. Notice of hearing was served on the assessee through the learned DR and the copy of the tear-off acknowledgement slip was also filed before us and a cover of letter dated 27.01.2022. When the case was called for hearing, none appeared for the assessee. We therefore proceed to decide the appeal of the assessee ex-parte after hearing the submissions of the learned DR.

2. There is a delay in filing this appeal but no application for condonation of delay has been filed by the assessee. Apart from that, it is seen that this appeal arises under the following facts and circumstance viz., the assessee has

a proprietary concern that runs a business of printing. For the Assessment year 2006-2007 the case was taken for scrutiny and the order was passed on 31/10/2008. The order u/s 143(3) was passed on 31/10/2008 by making the following additions:

Sl. No.	Particulars	Amount (Rs.)
1.	Depreciation on Man Roland Machine	62,36,044/-
2.	Depreciation claimed on 4 colour offset machine	4,01,650/-
3.	Accounting charge & audit fee	1,20,610/-
4.	Security service charges	73,591/-
5.	Commission paid disallowed	40,961/-
6.	Rent paid disallowed	2,62,600/-
7.	Interest Paid	8,73,198/-
8.	Interest Paid to Monarch Chits	270,000/-
9.	Out of sales promotion expend . 10% are disallowed	1,27,676/-
10.	Out of vehicle repair and maintenance	51,280/-
11.	Out of mobile expend	52,163/-
12.	Unexplained loans squared up	41,25,123/-
	Total	1,26,34,902/-

3. On first appeal, out of the five grounds that the assessee raised, the CIT(A) dismissed four grounds with respect to Interest paid to Monarch chits, Sales promotion on expenditure, vehicle repair and maintenance, mobile expenditure. The CIT(A) allowed the appeal of the assessee w.r.t. the issue of

unexplained loans squared up of Rs.41,25,123/-. In the absence of evidence that the loans were unexplained, the CIT(A) accepted the assessee's submission that the amount of Rs.41,25,123/- was not actually repaid to the creditors but transferred to the assessee's capital account in order to show a better financial position of the assessee before the banks.

4. On appeal by the Department before the ITAT on the sole issue of the unsecured loans squared up, the Hon'ble Tribunal remitted the matter back to the AO for verifying whether the impugned loans represented any expenditure for which deduction was claimed by the assessee in earlier assessment years.

5. Pursuant to the above order, the AO asked the assessee to demonstrate that there was no cessation of liability u/s 41(1) of the Act. In response, the assessee submitted before the AO on 21/12/2016 as follows:

"With respect to the above case, we wish to inform you that the assessee had borrowed funds from his family members and treated them as unsecured loans in Balance sheet, when the same was explained to the bankers, the bankers wanted this to be termed as Quasi capital because only then the required ratios would be satisfied for the banker to provide them with the credit facilities. Even in the sanction letter, one of the terms and conditions of sanction letter is that the said amounts are not to be repaid during the tenure of the loan. The assessee has assured them the quasi capital would not be repaid during the tenure of the loan. While preparing the financial statements as there is no provision for Quasi capital, we have considered the said amounts as capital in the books of Smart visions and retained the identity of the loans from the family members in personal balance sheet of Mr. S.V.Bharath with an intention that when the said amount is repaid (after clearing bank loan) the same would be treated as drawings in the books of smart visions."

6. However, the AO held that the assessee's explanation was not acceptable since the assessee did not furnish the personal balance sheet or the ledger account confirmation or the name, address and PANs of the creditors to show that the outstanding liability is still existing. The assessee had also not provided the details the expenses attributable to the loans taken. Accordingly, the AO

held that the assessee had not proved the liability to be genuine and did not provide the name, address and PAN of the creditors for verification. Hence the AO held that there was cessation of liability once the loans were taken to the proprietor's personal balance sheet and added back the sum of Rs.41,25,123/-.”

7. Against the order of the AO dated 23.12.2016 giving effect to the directions of the Tribunal, assessee filed appeal before CIT(A) and in so far as the addition of Rs.41,25,123/- is concerned, the same was deleted by the CIT(A) in the impugned order. The assessee in the appellate proceedings had also sought to challenge other additions made in the Order of Assessment dated 31.10.2008 but the same was not entertained by CIT(A) because the scope of the proceedings before the AO and the CIT(A) was only with regard to unexplained loan squared up of Rs.41,25,123/- which was directed by the Tribunal to be adjudicated by the AO afresh.

8. In this appeal, the grounds raised by the assessee are also in respect of the issues which does not emanate from the order of the Tribunal. Therefore, in our view, the grounds sought to be adjudicated by the assessee cannot be adjudicated in the present proceedings as the scope of these proceedings are limited and the issues that were remanded by the Tribunal to the AO for fresh consideration and no other issues can be sought to be adjudicated in those proceedings. In that view of the matter, we find no merits in this appeal by the assessee and accordingly the same is dismissed.

9. In the result, appeal by the assessee is dismissed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(B. R. BASKARAN)
Accountant Member

Sd/-

(N. V. VASUDEVAN)
Vice President

Bangalore.

Dated: 14.02.2022.

/NS/*

Copy to:

- | | |
|--------------|---------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.