

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F" DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No. 3661/DEL/2018
Assessment Year 2013-14

Pankaj Gupta, 1255-56, Bara Bazar, Kashmiri Gate, Delhi	v.	ITO, Ward-35(5), New Delhi.
TAN/PAN: AAEPG4498A		
(Appellant)		(Respondent)

Appellant by:	Shri Wahaj Ahmed Khan, Adv.		
Respondent by:	Shri Ajay Kumar, Sr.D.R.		
Date of hearing:	15	02	2022
Date of pronouncement:	25	02	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-XII, New Delhi dated 17.01.2018 arising from the assessment order dated 21.03.2016 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2013-14. The substantive grounds of appeal raised by the assessee read as under:

"1. That Id commissioner of income tax (appeals)-12 has not appreciated that Ld. Income tax officer has grossly erred in making an addition of Rs.40,00,000/- being unsecured loans, for which required confirmation was filed and is available on record. In fact no such loan was taken by the assessee and these facts were proved before Id commissioner

2. That Ld. commissioner of income tax (appeals)-12 has not appreciated that Id Income tax officer was not justified in making an addition of Rs.38847/- out of car and telephone expenses which was made arbitrarily without any basis.

3. That Ld. commissioner of income tax (appeals)-12 has not appreciated that Id Income tax officer was not justified in disallowing the claim of deductions u/s 80C and D amounting Rs.115000/-.”

2. The assessee filed return of income declaring total income at Rs.9,24,810/-. The case of the assessee was selected for scrutiny. As per the assessment order, the Assessing Officer has made following additions.

(i) unsecured loans u/s. 68 Rs. 40 lacs,

(ii) denial of deduction u/s.80C and 8D of Rs.15000

(iii) disallowance out of car and telephone expenses Rs.38847/-.

3. Aggrieved, the assessee preferred appeal before the CIT(A). The CIT(A) however denied any relief.

4. Further aggrieved, the assessee preferred appeal before the Tribunal.

5. Ld. counsel for the assessee made extensive arguments which shall be dealt with in the succeeding paragraph.

6. Ld. DR for the Revenue supported the order of the lower authorities.

7. We have heard considered the rival submissions and perused the material on record. As regards the additions of Rs.40 lac u/s.68 of the Act, the assessee contends that the assessee has not obtained

any loans from M/s. JR International as alleged. The assessee has lent Rs.40 lac in aggregate during the year which was returned by the lender in the same year in installments as per the confirmation from the lender as well as bank statement showing transactions with the lender. The assessee has given an amount of Rs.18 lac on 10.07.2012 which was received back through banking channel on 12.07.2012. Similarly, the assessee lent Rs. 22 lac on 18.07.2012 which was received back in two parts, i.e. Rs.9 lac on 04.09.2012 and Rs. 13 lac on 05.09.2012. The Assessing Officer has thus misconceived the gamut of transactions and applied the provisions of Section 68 incorrectly. On the basis of documentary evidences such as confirmation and bank statement, we find *prima facie* merit in the plea of the assessee without any demur. The order of the CIT(A) being wholly unjustifiable is set aside and the action of the Assessing Officer is cancelled.

8. Ground No.1 of the appeal of the assessee is allowed.

9. Ground No.2 concerns additions of Rs.1,15,000/- on account of Sections 80C and 80D. It is claimed on behalf of the assessee that assessee has paid LIP amounting to Rs.1,40,000/- and 80C claim thereon is allowable upto Rs. 1 lac. Similarly, the assessee has paid Rs.26,446/- towards premium for hospitalization benefit policy. The assertion made on behalf of the assessee is supported by the documentary evidences produced in this regard. We thus see no justification in the action of the Revenue.

10. Ground No.2 of the appeal of the assessee is allowed.

11. Ground No. 3 pertains to estimated disallowances out of car and telephone expenses amounting to Rs.38847/-. It is noticed that the Assessing has disallowed 1/6 of total expenses incurred on this

score on the ground that no log book has been maintained by the assessee and no details are available. The Assessing Officer has taken support from the decision of the Co-ordinate Bench of Tribunal in the case of Malu Khan & Party vs. DCIT (2001) 164 Taxation 70 (Trib) (Jodh). In the absence of any tangible evidences, we are not inclined to interfere with the estimations so made.

12. Ground No.3 of the appeal of the assessee is dismissed.

13. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 25/02/2022.

Sd/-
[AMIT SHUKLA]
JUDICIAL MEMBER

DATED: **25/02/2022**

Prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER