

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

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.9186/Del/2019
[Assessment Year : 2015-16]**

Link Steel Pvt.Ltd., Plot No.18, Shop No.18B, BSR Road, Industrial Area,Ghaziabad-201010. PAN-AAACL2591C	vs	ITO, Ward-1(4), Ghaziabad.
APPELLANT		RESPONDENT
Appellant by	Shri Tushar Singhal, CA	
Respondent by	Shri Sanjay Kumar, Sr.DR	
Date of Hearing	23.02.2022	
Date of Pronouncement	18.04.2022	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2015-16 is directed against the order of Ld. CIT(A), Ghaziabad dated 30.09.2019.

The assessee has raised following grounds of appeal:-

1. *"That the learned Commissioner of Income Tax (Appeals) has failed to appreciate that unsecured loans aggregating to Rs. 5,70,000/- had been received by banking channel from identifiable parties who had duly confirmed that loans had been advanced to the appellant and as such, addition so sustained is invalid and untenable.*
2. *The Ld. AO failed to make a reasonable enquiry about creditworthiness of lenders and made addition u/s 68 without application of mind and confirmed by CIT (A), Ghaziabad.*
3. *Out of Addition made by AO and further confirmed by CIT(A) of Rs. 570000/-, addition of Rs. 415000/- was completely wrong, since cash was deposited before Loan given date, was only Rs. 25000/- whereas Ld AO considered the same as Rs. 415000/-*

4. *The Appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of Appeal.”*

2. The only effective ground in this appeal is against the sustaining of addition of Rs.5,70,000/-.

FACTS OF THE CASE

3. Facts giving rise to the present appeal are that in this case, the assessee filed its return of income on 25.09.2015 declaring an income of Rs.62,970/-. The case was selected for scrutiny assessment and the assessment u/s 143(3) of the Income Tax Act, 1961 (“the Act”) was framed vide order dated 26.12.2017. During the assessment proceedings, the Assessing Officer (“AO”) noticed that from perusal of the audit report, the assessee had claimed to have obtained unsecured loans either from Directors or relatives of such Directors of the assessee company namely, Shri Shailesh Kumar Singhal of Rs.13,58,000/-; Smt. Seema Singhal of Rs.10,30,000/-; M/s S.K.Singhal (HUF) of Rs.3,75,000/- and Smt. Shalika Singhal of Rs.9,71,000/-. The AO sought explanation from the assessee regarding the unsecured loans and also to explain the reason for deposits of cash in the said person’s accounts. The AO treated a sum of Rs.5,70,000/- of loan as undisclosed income of the assessee u/s 68 of the Act.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who after considering the submissions, dismissed the appeal of the assessee.

5. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

6. Ld. Counsel for the assessee submitted that the authorities below failed to appreciate the facts in right perspective. He submitted that the amount was received through banking channel. The AO only recorded the fact of cash deposits. He contended that the only cash deposited on the date of loan was Rs.25,000/-. He further contended that merely because there were certain cash deposits which would not prove that the undisclosed income of the assessee company is routed through these persons without confronting the same from the said persons.

7. On the contrary, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below.

8. I have heard Ld. Authorized representatives of the parties and perused the material available on record and gone through the orders of the authorities below. The AO during the course of assessment proceedings, noticed that in the case of **Smt. Seema Singhal**, there was certain cash deposits on 02.04.2014 and only a sum of Rs.1,00,000/- was given to the assessee company and again on 12.06.2014, there were cash deposit of Rs.20,000/- and the same amount was given to the assessee company. Further, on 20.12.2014, a sum of Rs.30,000/- was deposited and a sum of Rs.30,000/- was given to the assessee company. In respect of **M/s. S.K.Singhal (HUF)**, a sum of Rs.3,00,000/- was deposited on 31.03.2014 by cash and on 04.04.2014, the same amount was given to the assessee company. On 12.06.2014, an amount of Rs.30,000/- was deposited and same amount given to the assessee company. Similarly, on 20.12.2014 & 11.03.2015, amount of Rs.20,000/- and Rs.25,000/- was deposited and same amounts were given to the assessee

company. In respect of **Smt. Shalika Singhal**, there was a cash deposit of Rs.10,000/- on 04.04.2014 and on same day, there was a payment of Rs.15,000/- to assessee company and on 20.12.2014 also, there was a deposit of Rs.30,000/- and payment to the assessee company of Rs.30,000/-. There is nothing on record suggesting that the assessee had sought explanation from these parties regarding cash deposits. Therefore, in the absence of the inquiry from the concerned parties about the source of deposits of such amount, I am of the considered view that the authorities below erred in making addition merely on the ground of suspicion. I find that Ld.CIT(A) has decided the issue by observing as under:-

7.1 "Ground nos. 1 and 4 are general in nature requiring no adjudication.

7.2 Ground nos. 2 and 3: The appellant has challenged the addition of Rs. 5,70,000/- u/s 68 contending that observations made by AO on account of unexplained unsecured loan received from Smt. Seema Singhal (Rs. 1,50,000/-), M/s S. K. Singhal (HuF) (Rs. 3,75,000/-), Smt. Shalika Singhal (Rs. 45,000/-). During the course of appellate proceedings the appellant disputed AO's observation of certain deposits in the bank accounts regarding which comments were called for from AO and the copy of remand report of AO was given to the appellant. However, considering all documents, it is found that appellant failed to substantiate the creditworthiness of persons lending the money. For example during the course of appellate proceedings appellant failed to rebut the observation of the AO wherein the submissions of the three lenders i.e. Smt. Shalika Singhal, Shailesh Kumar Singhal (HuF) and Smt. Seema Singhal are given on page 2 of the assessment order which is scanned as under:

Based on these facts vide order sheet entry dated 11.12.2017, the assessee was questioned to explain that there are cash deposits in the bank accounts of the persons who have given unsecured loans

to assessee company just a day before or on the date the loan has been given to assessee otherwise the balance in bank accounts of unsecured loaners is very meager whole of the year around. Vide reply dated 20.12.2014 the assessee through its counsel submitted the details regarding the same. It has been stated in respect of Smt. Shalika Singhal and M/s Shailesh Kumar Singhal (HUF) respectively as under and I quote:-

Shalika Singhal:-“It is also to mention here that she generally deposits the amount in her bank account when she has to pay through cheques.”

M/s Shailesh Kumar Singhal (HUF):- “It is also to mention here that the cash is generally deposited only when it has to pay through cheques only.”

Smt. Seema Singhal:- “deposited cash out of her salary income and rental income which she is getting in cash.”

7.2.1. Thus, the appellant failed to substantiate the creditworthiness of the three lenders. Accordingly, the addition made by the AO is confirmed u/s 68 r.w.s. 115BBE. Accordingly these grounds of appeal are dismissed.”

9. It was stated by the assessee before the authorities below that in the case of Smt. Seema Singhal, she has been withdrawing salary income and rental income to make the payment. In the case of M/s. S.K.Singhal (HUF), it was stated that lender had deposited only Rs.10,000/- in cash and rest of sum of Rs.2,90,000/- was credited through account payee cheque on 12.06.2014 and Rs.30,000/- deposited in cash in the bank on 12.06.2014. Further, in the case of Smt. Shalika Singhal, it was stated that a sum of Rs.30,000/- was received as a professional income in cash which was deposited out of the professional income. It is seen that the authorities below have not commented and made any inquiry on this explanation of the assessee. I find that there is a categorical submission by the assessee that in the case of lenders HUF, the

amount was deposited through account payee cheque which was recorded as cash deposits by the assessing authority. Therefore, under these facts, additions made and sustained by the authorities below was in a mechanical manner without bringing on record the correct facts. Hence, additions made by the AO are hereby deleted. Thus, Ground raised by the assessee is allowed.

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

Order pronounced in the open Court on 18th April, 2022.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI