

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH  
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER  
&  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.2303/Mum/2021  
(Assessment Year :2012-13)**

M/s. Talisman Securities Pvt. Ltd., 402, 4 <sup>th</sup> Floor, Business Point, Paliram Road Andheri (West) Mumbai – 400 058	Vs.	DCIT, Central Circle 7(2) Room No.655, 6 <sup>th</sup> Floor Aayakar Bhavan Maharshi Karve Road Mumbai – 400 020
<b>PAN/GIR No. AABCT2701M</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Anil Sathe
Revenue by	Shri B.K. Bagchi
<b>Date of Hearing</b>	<b>07/06/2022</b>
<b>Date of Pronouncement</b>	<b>10/06 /2022</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.2303/Mum/2021 for A.Y.2012-13 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-49, Mumbai in appeal No.CIT(A)-49, Mumbai/10276/2019-20 dated 26/10/2021 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 19/12/2019 by the Id. Dy. Commissioner of Income Tax, Central Circle-7(2), Mumbai (hereinafter referred to as Id. AO).

2. The ground No.1 raised by the assessee is challenging the validity of re-assessment was stated to be not pressed by the Id. AR for which necessary endorsement has been made by him. Accordingly, the ground No.1 is hereby dismissed as not pressed.

3. The other grounds raised by the assessee are merely challenging the confirmation of addition by the Id. CIT(A) towards unexplained cash credit u/s.68 of the Act in the sum of Rs.10,00,000/- in respect of loan received by the assessee and disallowance of interest paid on such loan.

3.1. We have heard rival submissions and perused the materials available on record. We find that assessee borrowed a sum of Rs.50,00,000/- from a concern M/s. Confidence Finance & Trading Ltd., during the year under consideration. The assessee paid interest of Rs.1,96,315/- on this loan and claimed the same as deduction. The nature and source of loan received by the assessee from the said party was sought to be verified and examined by the Id. AO. The Id. AO also observed that the said lender company is a penny stock company and the share prices of the said company had been artificially rigged to provide unwarranted gains to certain interested investors by enabling them to convert their unaccounted income in the form of bogus long term capital gain or short term capital loss. The assessee in response to the queries raised by the Id. AO provided the copy of income tax returns of the lending company thereby proving the identity of the lender. The assessee gave evidences in the form of bank statements of assessee company wherein the loan was received by account payee cheque through regular banking channels. The balance sheet of lending company was also enclosed whereby the loan transaction given by the assessee was duly disclosed in the asset side of its balance sheet. These two facts proved the genuineness of the

transaction. The assessee from the balance sheet of the lending company proved that the said company had sufficient share capital and reserves and surplus which proved the creditworthiness apart from the income disclosed in the sum of Rs.48.79 lakhs in the income tax return for the year under consideration which also proved the credit worthiness. Apart from this, the Id. AO also issued notice u/s.133(6) of the Act directly to the lender seeking for confirmation of the transaction carried on with the assessee. The lender directly filed replies before the Id. AO confirming the entire transactions with the assessee. The assessee also filed confirmation of loan balances from the lender before the Id. AO. The assessee pleaded that all these evidences collectively proved all the three necessary ingredients of Section 68 of the Act. However, the Id. AO did not heed to the contentions of the assessee and proceeded to make an addition u/s.68 of the Act and consequentially disallowed the interest paid thereon. This action of the Id. AO was upheld by the Id. CIT(A).

3.2. We find that all the documents that are relevant for the purpose of proving the genuineness of the loans had been duly furnished by the assessee as detailed above. We find that assessee had also enclosed the bank statements of the lender company which proved sufficient creditworthiness available with the lender company and there was absolutely no cash deposits made in the said bank account before advancing the loan to the assessee company. Hence, the allegation levelled by the Id. AO in para 3.1 of his order is factually incorrect in this regard. The loan transaction of Rs.50,00,000/- had been made through regular banking channels by account payee cheques and the said transaction is also duly reflected and disclosed in the books of accounts of the lender company. This proves the genuineness of the transaction of the loan. We find that the lender company is duly assessed to income tax

which is evident from the income tax return acknowledgement enclosed before the lower authorities. This clearly proves the identity of the lender. The assessee had also filed confirmation from the lender confirming the loan transactions. All the aforesaid facts were also duly confirmed by the lender directly before the Id. AO in response to notice issued u/s.133(6) of the Act by the Id. AO. We also find from the ledger account of the lender enclosed in the paper book that the loan has been subsequently repaid by the assessee in the A.Y.2013-14. This loan has been duly subjected to interest which has been duly subjected to deduction of tax at source. All these transactions collectively prove that the entire loan transaction is genuine and hence, there is absolutely no case made out by the Revenue to make out an addition u/s.68 of the Act in the peculiar facts and circumstances of the instant case. Accordingly, the addition made u/s.68 of the Act is hereby directed to be deleted.

3.3. Since the loan transaction is treated as genuine, interest paid on such loan is squarely allowable as deduction u/s.36(1)(iii) of the Act. Accordingly, the ground Nos. 2-4 raised by the assessee are hereby allowed.

**4. In the result, appeal of the assessee is partly allowed.**

Order pronounced on 10/ 06/2022 by way of proper mentioning in the notice board.

**Sd/-**  
**(RAHUL CHAUDHARY)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 10/06/2022

KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**