

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI

(DELHI BENCH 'E' : NEW DELHI)

**BEFORE SH. G.S.PANNU, HON'BLE PRESIDENT
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1188/Del/2019
(Assessment Year : 2015-16)

M/s. Naman Alloys Pvt. Ltd. 5836/32, Basti Harphool Singh, Sadar Thana Road, Delhi-110006 PAN : AABCN9528J	Vs.	ACIT, Circle-17(2) New Delhi
(APPELLANT)		(RESPONDENT)

Assessee by	Sh. Shivcharan Lal Gupta, Director
Revenue by	Ms. Garima Sharma, Sr. DR

Date of hearing:	25.05.2022
Date of Pronouncement:	15.06.2022

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been filed by assessee against the appellate order dated 21.01.2019 in appeal no. 6/10281/2017-18 for assessment year 2015-16 passed by CIT(A)-6, Delhi (hereinafter referred to as the First Appellate Authority in short 'Ld. F.A.A.')

in regard to appeal before it against assessment order dated 22.12.2017 passed u/s 143(3) of the Income Tax Act,

1961 by Asstt. Commissioner of Income Tax, Circle-17(2), New Delhi (hereinafter referred as the 'AO').

2. The facts in brief are return of income was filed by the assessee company declaring loss of Rs. 49,47,177/- and case was selected for scrutiny. Ld. AO had found that assessee failed to explain the source of source of Rs. 10,00,000/- shown in the relevant year as unsecured loan. The assessee had claimed that Sh. Shivcharan Lal Gupta who is one of the Directors had given this loan amount from his own sources to meet certain expenses of the company which was otherwise running in losses.

3. The ld. CIT(A) has sustained the addition of Rs. 10 lakhs u/s 68 of the Act and now the assessee has come in appeal raising following grounds :-

“1. That on facts and in the circumstances of the case and in law the Learned CIT(Appeals) erred in confirming additions made by the AO in a sum of Rs. 10,00,000/- being the amount of expenditure incurred on behalf of assessee company by the Director invoking section 68 of the Income Tax Act, 1961.

The action being most arbitrary, erroneous and unlawful, it is prayed that the same must be quashed.”

4. The case was called for hearing and Shri Shivcharan Lal Gupta, Director for assessee appeared in person. A clarification was filed by him which is taken on record with copy supplied to revenue. It has been submitted by Shri Shiv Charan Lal Gupta, Director of the assessee company, that transaction of the cash deposit amount of Rs. 10 lakhs in the assessee's account were made from cash withdrawals from his wife's account and the bank statement account of his wife's account of Axis Bank for the period 01.04.2015 to 31.03.2015 and a cash book account statement for this period

has been placed on record. The same shows some entires of cash withdrawals.

5. The bench is of considered opinion that as the tax authorities below have primarily question the source of source of the creditor, so the ends of justice will be served by setting aside the impugned order of assessment and directing the Ld. AO to examine the explanation.

6. Accordingly, the appeal is allowed and the issue is restored to the files of Ld. AO with direction to make a fresh assessment in terms of explanation of the source of source submitted by the assessee and reasonable opportunity of hearing in that regard be given.

Order pronounced in the open court on 15th June, 2022.

Sd/-
(G.S.PANNU)
PRESIDENT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Date:- 15.06.2022

Binita, SR.P.S

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI