

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI**

**BEFORE,
SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.2838/Del/2019
(ASSESSMENT YEAR 2012-13)**

Yogmaya Hostels Pvt. Ltd. 13/1, Ward No.1, Mehrauli New Delhi-110 030 PAN-AAACY 1529P	Vs.	Dy.CIT Circle-27(2) New Delhi
(Appellant)		(Respondent)

Appellant By	Sh. Sunil Jain, Authorized Representative
Respondent by	Sh. Ramdhan Meena, Senior Departmental Representative

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-31, New Delhi [“Ld. CIT(A)”, for short], dated 18.02.2019 for Assessment Year 2012-13. Grounds taken in this appeal of Assessee are as under:

“1. On the facts and circumstances of the case and in law, the Learned assessing officer has erred in making addition of Rs.60,00,000/-by treating unsecured loan received from M/s

Scorpio Iron Pvt. Ltd. as income u/s 68 of The Income Tax Act and Learned CIT (appeals) has erred in upholding the same.

2. *On the facts and circumstances of the case and in law, the Learned assessing officer has erred in making addition of Rs.5,00,000/- by treating unsecured loan received from Ms. Pushpa Popli as income u/s 68 of The Income Tax Act and Learned CIT (appeals) has erred in upholding the same.*

3. *On the facts and circumstances of the case and in law, the Learned assessing officer has erred in making addition of Rs.11,00,000/- by treating unsecured loan received from Vashisht Developers Pvt Ltd. as income u/s 68 of The Income Tax Act and Learned CIT (appeals) has erred in upholding the same.*

4. *On the facts and circumstances of the case and in law, the Learned CIT (Appeals) has erred in upholding the addition of Rs.10,00,000/- by treating unsecured loan received from Gaurav Sharma as income u/s 68 of The Income Tax Act.*

5. *On the facts and circumstances of the case and in law, the Learned CIT(Appeals) has erred in upholding the addition of Rs.15,00,000/- by treating unsecured loan received from Narender Garg as income u/s 68 of The Income Tax Act.*

6. *On the facts and circumstances of the case and in law, the Learned CIT(appeals) has erred in upholding the addition of Rs.20,00,000/- by treating unsecured loan received from Sandeep Sharma as income u/s 68 of The Income Tax Act.*

7. *On the facts and circumstances of the case and in law, the Learned assessing officer has erred in making addition of Rs.12,00,000/- by treating money received towards Share Capital from Ms. Urvasi Sharma as income u/s 68 of The Income Tax Act and Learned CIT(Appeals) has erred in upholding the same.*

8. *On the facts and circumstances of the case and in law, the learned CIT(Appeals) has erred in reducing the disallowance of expenses by only 10% as against 20% disallowance made by the learned AO, instead of deleting the entire disallowance.*

9. *Assessee craves leave to add amend or alter the grounds of appeal at the time of hearing and all the grounds are without prejudice to one another.”*

(B) Assessment Order dated 12/03/2015 was passed by the Assessing Officer (“AO” for short) u/s 143(3) of the Income Tax Act, 1961 determining total income at Rs.1,81,56,290/- as against the returned income of Rs.42,16,010/-. Perusal of assessment order shows that in the aforesaid assessment order, additions amounting to Rs.1,21,00,000/- were made by making additions u/s 68 of Income Tax Act in respect of loans taken from the following persons:

(i) Pawan Lila	(Rs.40,00,000/-)
(ii) Pushpa Sharma	(Rs.5,00,000/-)
(iii) Sandeep Sharma	(Rs.45,00,000/-)
(iv) Scorpio Iron Ltd.	(Rs.20,00,000/-)
(v) Vashisht Developers	(Rs.11,00,000/-)

(B.1) Further, on perusal of the assessment order, it is found that additions of Rs.16,00,000/- were made on account of increase in capital, which included addition of Rs.12,00,000/- on account of increase in the capital of Mrs. Urvashi Sharma and on account of increase of Rs. 4,00,000/- in the capital of Sh. Sanjeev Sharma.

(B.2) Moreover, addition of Rs.2,40,280/- was also made by the Assessing Officer on account of disallowances from out of expenses totaling Rs.12,01,402/- under the heads of Printing &

Stationery, Insurance, Telephone, Conveyance, Car Maintenance, Professional Charges, Electricity & Water, Travelling Expenses.

(B.3) The assessee filed appeal before the Ld. CIT(A) against the aforesaid additions made in the assessment order. The assessee's appeal was disposed of by the Ld. CIT(A) vide impugned appellate order dated 18/02/2019. In the aforesaid impugned appellate order dated 18/02/2019, aforesaid additions of Rs.1,21,00,000/- were confirmed. Further, out of the aforesaid additions on account of additions to capital, totaling Rs.16,00,000/-, addition on account of increase in the capital of Ms. Urvashi Sharma was confirmed; whereas an addition of Rs.4,00,000/- was deleted. Furthermore, out of the aforesaid addition of Rs.2,40,280/- on account of disallowance out of various expense, the Ld. CIT(A) confirmed the addition of Rs.1,20,140/- and deleted the remaining amount of Rs.1,20,140/-.

(B.2.1) The present appeal before us has been filed by the assessee against the aforesaid impugned appellate order dated 18/02/2019 of the Ld. CIT(A). In the course of appellate proceedings in Income Tax Appellate Tribunal a paper book containing the following particulars was filed from the assessee's side:

Grounds of Appeal No.	Particulars
1	In support of Unsecured Loan from "Scorpio Iron Ltd." Rs.60 lacs i. Confirmation ii. ITR of the company iii. Bank Statement iv. Balance Sheet of the lender company --> →
2	In support of unsecured Loan of Pushpa Popli (Rs.5 lacs): i. Confirmation ii. Bank Statement iii. ID Proof of lender iv. PAN v. Bank statement of the source
3	Unsecured Loan from Vasisth Developers Pvt. Ltd. Rs.11 Lacs: i. Confirmation ii. PAN iii. Co master detail as per MCA iv. Bank Statement
4	Unsecured Loan from Gaurav Sharma: Rs. 10 Lacs i. Confirmation ii. PAN iii. Bank Statement
5	Unsecured Loan from Narender Garg: Rs.15 Lacs i. Confirmation, ii. ITR iii. PAN iv. Bank statement
6	Share Capital Urvashi Sharma Rs.12 Lacs: i. Confirmation ii. ITR of Urvashi Sharma iii. Bank statement Urvashi Sharma iv. Bank statement of source of source I v. PAN of Source of source vi. Bank statement of source of source II

(C) At the time of hearing before us, the Ld. Authorized Representative ("Ld. AR" for short) for the assessee took us through the relevant portions of the assessment order dated 17/03/2015, and impugned appellate order dated 18/02/2019. He also took us through the contents of the paper book and strongly relied on the same. Based on it, he contended that the aforesaid additions of Rs.1,21,00,000/- and Rs.12,00,000/- confirmed by the Ld. CIT(A) in the impugned appellate order deserved to be deleted.

(C.1) The Ld. AR for the assessee also submitted that there were discrepancies and factual inaccuracies in the orders of the AO and Ld. CIT(A). He pointed out that the AO has recorded amount of unsecured loan in the name of Pawan Lila at Rs.40,00,000/- and Rs.20,00,000/- in the name of M/s Scorpio Iron Ltd; whereas, in reality, there was no loan from Pawan Lila and the amount of loan from M/s Scorpior Iron Ltd. was Rs.60 lacs. He further pointed out that amount of unsecured loan from Mr. Sandeep Sharma has been recorded by the AO at Rs.45,00,000/- whereas, in reality the amount of loan from him was only Rs.20,00,000/-. He also pointed out that the aforesaid amount of Rs.1,21,00,000/- included Rs.10,00,000/- from Mr. Saurav Sharma and Rs.15,00,000/- from Mr. Narendra Garg but there is no mention of this in the assessment order. In respect of the impugned order dated 18.02.2019 of the Ld. CIT(A), the Ld. AR for assessee pointed out that in paragraph 4.2.1 of the order, Ld. CIT(A) has confirmed addition of Rs.16,00,000/- on account of Share Capital of Mrs.

Urvashi Sharma; whereas actual amount of addition of share capital of Mrs. Urvashi Sharma is only Rs.12,00,000/-.

(C.2) The Ld. Senior Departmental Representative (“Ld. DR”, for short) for Revenue relied on the order of the Ld. CIT(A) and the AO. However, he did not dispute the submissions of the Ld. AR of the assessee that there were aforesaid discrepancies and factual inaccuracies in the orders of the AO and Ld. CIT(A), as we have discussed in the foregoing paragraph (C.1) of this order.

(C.2.1) We have heard both sides. We have perused materials on record. There is no dispute that there are material discrepancies and factual inaccuracies in the orders of the AO and Ld. CIT(A), as discussed in the foregoing paragraph (C.1) of this order. Therefore, we are of the view that disputed issues regarding addition of Rs.1,21,00,000/- on account of unsecured loan and addition in the capital account of Mrs. Urvashi Sharma are required to be considered afresh by the AO after due verification of facts in a careful and diligent manner. Accordingly, we set aside the orders of Ld. CIT(A) and AO on these disputed issues; and restore these disputed issues to the file of the AO for de novo order on these issues in accordance with law, after providing reasonable opportunity to the assessee. By way of abundant caution we clarify that we have expressed no opinion on merits of these disputed issues; and all legal remedies/recourse are available to both sides in the course of proceedings before the AO in pursuance of the our

aforesaid direction. The AO is directed to decide the issues with fresh mind. For statistical purposes, grounds 1 to 7 of the present appeal before us are treated as partly allowed.

(D) In respect of ground no.8 of the present appeal before us, the Ld. AR for assessee has not made any specific submissions; and has not brought any materials to our attention to show that the amount of Rs.1,20,140/- confirmed by the Ld. CIT(A) out of expenses claimed by the assessee under various heads is unreasonable or excessive, in the facts and circumstances of the case. The AO has stated in the assessment order that the assessee had not furnished any details relating to the expenses claimed, such as copy of ledger account, bills/vouchers etc. to justify such expenses. This was not disputed by the Ld. AR for the assessee at the time of hearing before us. The Ld. CIT(A) has stated in his order that the appellant had not furnished any comparable details of the last year as well as bills/vouchers to prove the genuineness of expenses. This was also not disputed by Ld. AR for the assessee at the time of hearing before us. At the time of hearing before us, the Ld. AR for the assessee did not express willingness to produce supporting evidences like bills, vouchers etc. to prove the genuineness of the expenses. The Ld. AR for the assessee could not bring any materials for our consideration to prove that there addition of Rs.1,20,140/- confirmed by Ld. CIT(A) out of assessee's claim, was excessive, or unreasonable or not in accordance with law. In view of the foregoing, and in the specific facts and

circumstances of the present case before us, we decline to interfere with the impugned appellate order of Ld. CIT(A) on this issue; and dismiss ground 8 of present appeal before us.

(E) In the result, this appeal is partly allowed for statistical purposes.

Order pronounced in open Court on 14/07/2022

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated:14/07/2022

Pk

Copy forwarded to:

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

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI