

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**Before Sh. Kul Bharat, Judicial Member
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 7346/Del/2018 : Asstt. Year : 2013-14

Maruti Rub Plast Pvt. Ltd., C/o M. K. Bhatt & Co., 302, Triveni Complex, E-10-12, Jawahar Park, Laxmi Nagar, New Delhi	Vs	Income Tax Officer, Ward-16(2), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAFCM4647P		

**Assessee by : None
Revenue by : Sh. Jeetender Chand, Sr. DR**

Date of Hearing: 25.10 .2022	Date of Pronouncement: 31.10.2022
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-6, New Delhi dated 06.09.2018.

2. Following grounds have been raised by the assessee:

"1. On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act wherein the notice under section 148 issued to the appellant is illegal, void and without jurisdiction and accordingly the assessment order passed on the foundation of such notice is liable to be quashed.

2. On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act, confirming the addition made by the AO on account "Unsecured Loan" of Rs. 15,00,000/- as alleged unexplained

cash credit treating the same as undisclosed income under section 68 of the Act without appreciating the fact that appellant has produced PAN, Confirmation, Financial statements, Copy of the ledger account, Bank statement of the lender and transaction took place through the banking channel. Further CIT (Appeals) did not appreciate the vital fact that AO did not consider the reply of lender M/s Mysore Finlease Private Limited bearing dated 26- 11-2017 in response to the notice under section 133(6) of the Act, duly received at his office on dated 29-11-2017.

3. On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act, confirming the addition made by the AO on account "Unsecured Loan" of Rs. 15,00,000/- as alleged unexplained cash credit without appreciating the fact that the said loan was repaid on dated 30- 03-2015 through the banking channel to the lender M/s Mysore Finlease Private Limited, thus genuineness of the transaction is beyond the doubt.

4. On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act, confirming the addition made by the AO on account "Unsecured Loan" of Rs. 15,00,000/- from M/s Mysore Finlease Private Limited, as alleged unexplained cash credit without appreciating the fact that provisions of section 68 for the "Examination of the Source of the Source" is not applicable in case of the "Unsecured Loans".

5. On the facts and circumstances of the case and in law, the CIT (Appeals) has erred in law and on fact in confirming the order of the AO passed under section 147/143(3) of the Act, confirming the addition made by the AO on account of commission @ 2% for taking accommodation entry amounting to Rs. 15,00,000/- without any basis, finding and evidence on hypothetical basis."

3. During the year, the assessee received Rs.15,00,000/- from an entity named Mysore Finlease Pvt. Ltd. The Assessing Officer sought the details from the assessee with regard to identity, genuineness and creditworthiness of the lender. The assessee has produced the bank account, balance sheet and confirmation from the lender. To enquire, the AO has issued summons u/s 131 of the Income Tax Act, 1961 to the principle officer of M/s Mysore Finlease Pvt. Ltd. for personal deposition which was not complied with. Further, the AO having observed that the monies received from Mysore Finlease Pvt. Ltd. have in turn been received from M/s Surbhi Texfab Ltd. which is having meager resources of Rs.9,608/-. The AO observed that the company Mysore Finlease Pvt. Ltd. has received an amount of Rs.25,000/- from M/s Surbhi Texfab Ltd. on 12.09.2012 out of which an amount of Rs.15,00,000/- was given to the assessee on 14.09.2012. The Assessing Officer has also held that based on the enquiries conducted on two people namely, Sh. Mukesh Kumar and Sh. Deepak Agarwal who are proved to be an entry operator as per the investigation conducted by the department, the assessee ought to have proved their resources in a cogent way.

4. We find that the assessee has not discharged his primary onus to prove the sources of the fund received by him from the source which is proved to have been in turned received from a shell company operated through the network of entry operator. Hence, placing reliance on the following judgments namely,

- Nakoda Fashion Pvt. Ltd. in ITA No. 1716/Ahd./2012 dated 18.08.2016
- Pee Aar Securities Ltd. Vs. DCIT 96 taxmann.com 602 (Delhi-Trib.)

- CIT Vs. Empire Biotech Pvt. Ltd. 361 ITR 258 (Del.)
- CIT Vs. Navodaya Castles Pvt. Ltd. in ITA No. 320/2012 dated 25.08.2014 (Del.)
- CIT Vs. N.R. Portfolio Pvt. Ltd. in ITA No. 134/2012 dated 21.12.2012
- CIT Vs. Nova Promoters & Finlease Pvt. Ltd. in Civil Appeal No(s). 195/2015 dated 07.12.2017 (SC)
- CIT Vs. United Commercial & Industrial Co. Pvt. Ltd. 187 ITR 596 (Cal.)
- CIT Vs. Precision Finance Pvt. Ltd. 208 ITR 465 (Cal.)
- CIT Vs. N. Tarika Properties Investment 51 taxmann.com 387 (SC), we decline to interfere with the order of the Id. CIT(A).

5. In the result, the appeal of the assessee is dismissed.
Order Pronounced in the Open Court on 31/10/2022.

Sd/-

(Kul Bharat)
Judicial Member

Dated: 31/10/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR