

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

**BEFORE SH. N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. KUL BHARAT, JUDICIAL MEMBER**

ITA No.7525/Del/2018
Assessment Year: 2015-16

ITO Ward- 11(1) New Delhi	Vs	Hanuman Pulses Pvt. Ltd. B-23, Lawrence Road, New Delhi-110035 PAN No.AACCH2970B
(APPELLANT)		(RESPONDENT)

Appellant	None
Respondent	Sh. Abhishek Kumar, Sr. DR

Date of hearing:	21/11/2022
Date of Pronouncement:	21/11/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the CIT(A)-4, New Delhi dated 24.09.2018 pertaining to A.Y.2015-16.

2. The grievance of the revenue read as under:-

1. *Whether on the facts and circumstances of the case and*

in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 1,86,64,000/-, made by the AO u/s 68 of the Income Tax Act, 1961 ('the Act') in respect of the credits claimed to have been received as unsecured loans by the assessee during the year.

*1 .a) Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition u/s 68 in respect of unsecured loans, ignoring the detailed findings of the AO that the alleged loans were nothing but accommodation entries in view of the **following** facts established by the **AO regarding the alleged creditors**:*

i) The creditworthiness of the alleged creditors was not proved as they did not have sufficient income(s) to advance such huge amount to the assessee and therefore receipt of loans through the banking channels was by itself not sufficient to establish their creditworthiness.

ii) The alleged creditors did not have any worthwhile or actual business and there was no correspondence between the transactions routed through the bank accounts existing in their names and their financials, showing that the credits in their bank accounts did not represent any genuine business operations but were only a conduit for arranging accommodation entries.

iii) The bank accounts of the alleged creditors did not conform to the pattern of a normal business operation and there were recurring patterns of credits from unverifiable source followed by immediate withdrawal/transfers to some

other entries.

iv) *The average balance in the bank accounts of the alleged lenders was meager, being in the range of Rs. 4,000/- to Rs. 6000/- approx, and therefore, their creditworthiness was not proved, iv) The director of the assessee company in his statement recorded during the course of the assessment proceedings did not even know the names of the directors/controllers of the lenders.*

1. *b) Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in not appreciating that in view of the detailed findings recorded by the AO regarding the credentials and creditworthiness of the alleged lenders, the onus incumbent on the assessee u/s 68 of the Act was not discharged by furnishing only ITRs and Financials of the alleged lenders.*

2. *The appellate crave leave to add, amend, modify, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.*

3. None appeared on behalf of the assessee inspite of several notices, therefore, we decided to proceed exparte. The DR was heard at length. Case record carefully perused.

4. Briefly stated the facts of the case are that during the course of the scrutiny assessment proceedings and on perusal of the balance sheet of the assessee the AO found that the assessee company has received fresh unsecured loan amounting to

Rs.30816949/- out of which Rs.14794701/- has been repaid during the year as follows :-

S.No.	Name of the person from whom unsecured loan received during the year	PAN	Amount
1.	Anup Transport Co Ltd.	AACCA9124G	8,00,000/-
2.	Chhabil Das Bansal	AAIPB4900G	4,00,000/-
3.	Hanuman Agro Industries Pvt. Ltd.	AAACH0439B	72,32,949/-
4.	Hanuman Pet Flakes	ADRPG2815M	27,00,000/-
5.	Hope Trade Link Pvt. Ltd.	AACCS4225L	94,00,000/-
6.	Kailashpati Cotton Mills Pvt. Ltd.	AAACK4814B	84,64,000/-
7.	Kamlesh Jain	AALPJ2229D	3,00,000/-
8.	Kavita Bansal	AAJPB1606Q	8,00,000/-
9.	Rajat Garg	AJRPG5985A	2,20,000/-
10.	Suresh Kumar Bansal	AAIPB4901H	5,00,000/-
	Total		3,08,16,949/-

5. Assessee was asked to furnish the details of the fresh credit introduced in the books of accounts during the year under consideration. In reply the assessee filed acknowledgment of income tax return, abstracts of the Bank statements of the lender, confirmed copy of account of the parties.

6. After perusing the detailed submissions the AO noticed that following three parties had meager gross annual income :-

<i>Name of the lending company</i>	<i>PAN</i>	<i>Amount of loan</i>	<i>Gross annual income as per ITR</i>
<i>Anup Transport Co Ltd.</i>	<i>AACCA9124G</i>	<i>8,00,000/-</i>	<i>2,820/-</i>
<i>Hope Trades Link Pvt. Ltd.</i>	<i>AACCS4225L</i>	<i>94,00,000/-</i>	<i>35,940/-</i>
<i>Kailashpati Cotton Mills Pvt. Ltd.</i>	<i>AAACK4814B</i>	<i>84,64,000/-</i>	<i>3,080/-</i>

7. The AO further made enquiry by issuing notices u/s. 133 (6) of the Act. The AO observed that the notices were returned by the postal authorities with the remark “incomplete address”.

8. The assessee was confronted with this in response to which the assessee filed current addresses of the three parties. The AO further made enquiries through Income Tax Inspector / ITO and on receiving adverse reports from field enquiries the AO made the addition of Rs.18664000/- u/s. 68 of the Act.

9. The assessee agitated the matter before the CIT(A) and once again filed evidences in support of its claim of genuineness of the transaction. It was categorically stated before the CIT(A) that all the transactions are genuine and the impugned lenders have sufficient sources of income to lend the money to the assessee. After considering the facts and the submissions the CIT(A) held as under :-

“8.10 In view of the above findings, I am of the view that the reasoning given by the AO for making the addition under Section 68 of the Act, does not hold good. This is a case of accommodation entries as suspected by the A.O. is contradicted by documents placed on record. One of the important pieces of information/ evidence in this regard is the investigation carried out by the AO in Hisar, which suggests that identity, genuineness and creditworthiness of the lender companies stand established. The same is also fortified as the amount was repaid to the lender companies by the appellant company and interest was also paid on the loan taken on which TDS was properly deducted.”

10. Before us the DR could not point out any factual error in the aforementioned findings of the CIT(A). We are of the considered view that the findings of the CIT(A) are based upon the investigation carried out by the AO in Hissar according to which identity, genuineness and credit worthiness of the lenders company stand established. As these facts are not controverted by the revenue / DR we do not find any reason to interfere with the findings of the CIT(A). The appeal filed by the revenue is accordingly dismissed.

11. Decision announced in the open court on 21.11.2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- .11.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI