

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH: CHENNAI**

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं  
श्री जी. मंजूनाथा, माननीय लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND**  
**SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.510/Chny/2021  
निर्धारण वर्ष /Assessment Year: 2013-14

Smt.Jayalakshmi,  
No.21, Solaiappan Street,  
Washermenpet,  
Chennai-600 021.

[PAN: ACUPJ 2737 P]

(अपीलार्थी/Appellant)

v. The Income Tax Officer,  
Non-Corporate Ward-4(2),  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.D.Anand, Adv.  
प्रत्यर्थी की ओर से /Respondent by : Mr. AR.V.Sreenivasan,  
Addl.CIT

सुनवाई की तारीख/Date of Hearing : 05.01.2023  
घोषणा की तारीख /Date of Pronouncement : 11.01.2023

**आदेश / ORDER**

**PER G. MANJUNATHA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 24.09.2021 and pertains to assessment year 2013-14.

**2. The assessee has raised the following grounds of appeal:**

1. The order of the learned Commissioner of Income (Appeals) ("CIT (A)"); is wrong, illegal and opposed to facts of the instant case.

2. The said issue was sent back to the file of the Learned Assessing Officer vide order of the Hon'ble ITAT dated 11/10/2018 for the limited issue of determination whether the loan realized from the debtors were in cash or not.

3. The Learned Assessing Officer made arbitrary additions without the right consideration of facts or submissions made and with complete disregard of evidence placed before him.

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*4. Further, the Learned Assessing Officer made disallowances, going beyond the order of the Hon'ble ITAT, while rejecting the deductions claimed u/s.80C.*

*5. The Learned CIT(A) and Learned Assessing officer wrongly stated that the Appellant had not sufficiently substantiated the genuineness of the loan and the manner in which the same were realized.*

*6. The Learned CIT(A) and Learned Assessing officer wrongly stated that neither of the Loan debtors had confirmed the loan and repayment of the same in cash. On the contrary the Loan debtors had reproduced their ledger accounts directly to the Learned Assessing officer which clearly confirmed the loan taken by them and the repayment of the same in cash. Further Affidavits from the Loan debtors were provided to the learned CIT(A), for his consideration, however, for reasons best known to him the same were overlooked*

*7. The Learned Assessing officer stated in the reassessment order that debtor named M/s New Star enterprise had furnished the ledger copy of the Appellant, however, for some reason best known to the Learned Assessing officer, the ledger is not even relied upon while making a decision and passing the said order, no comment is even passed on the same despite the same having the confirmations of the loan taken by the debtor and the amount of loan paid back in cash to the Appellant. The Learned CIT (A) has overlooked these relevant facts and arbitrarily rejected the Appeal of the Appellant.*

*8. The Learned CIT (A), after 4 stages of proceedings wherein confirmation of repayment by debtors in cash was scrutinized, suddenly raised a fresh issue that there was no evidence that the loan was given by the appellant in first place and arbitrarily on the basis of the same rejected the Appeal.*

*9. The Learned CIT (A) failed to understand these facts and passed the arbitrary order.*

*For these and other grounds that may be adduced during the course of hearing, it is hereby prayed that the arbitrary addition may kindly be deleted and thus render justice.*

**3.** The brief facts of the case are that the assessee is engaged in the business of trading in jewellery filed her return of income for the AY 2013-14 on 09.10.2013 declaring total income of Rs.2,03,190/-. The assessment has been completed u/s.143(3) of the Act, on 28.03.2016 and determined total income of Rs.24,53,190/- by making addition towards unexplained cash credit amounting to Rs.21,50,000/-. The assessee carried the matter in appeal before the Tribunal and the ITAT, Chennai Benches vide its order dated 11.10.2018 in ITA No.2587/Chny/2017, remitted the entire issue back to the file of the AO for further verification. During the second round of litigation, the AO called upon the assessee to file necessary evidences in respect of unsecured loans. In response, the assessee filed details of loan

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creditors of M/s.New Star Enterprises & M/s.Tirupathy Steel Corporation. On receipt of the same, the AO called for further details like account copy, confirmation letter and the PAN, etc., by issuance of notice u/s.133(6) of the Act. Notice issued u/s.133(6) of the Act, was returned unserved by the Postal Authorities with a remark 'unclaimed'. The AO informed the assessee, one of the creditor M/s.New Star Enterprises furnished a Xerox copy of ledger account through e-mail. The assessee's representative furnished the postal address of M/s.Tirupathy Steel Corporation through e-mail on 18.11.2019. The AO sent further letters to both parties, but no response was received. The AO after considering relevant submissions and also details filed by the assessee, opined that the assessee could not file necessary evidences including confirmation from the parties to establish the genuineness of the transactions and thus, made addition of Rs.21,50,000/- towards unsecured loans claimed to have been received from M/s.New Star Enterprises & M/s.Tirupathy Steel Corporation.

**4.** Being aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee claimed that he has furnished name and address of loan creditors and also confirmations from the parties. The Ld.CIT(A) after considering relevant submissions of the assessee and also considering certain facts held that the assessee could not establish the genuineness of transactions by filing necessary evidences, including financial statements to prove that the

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creditors have given loan to the assessee. Therefore, rejected the arguments of the assessee and sustained additions made by the AO.

**5.** The Ld.AR for the assessee referring to a photo copy of ledger account in the books of M/s.New Star Enterprises & M/s.Tirupathy Steel Corporation submitted that the parties have responded through e-mail, in response to notice issued u/s.133(6) of the Act, by the AO and furnished all details. The AO ignoring all details, simply made additions towards unsecured loans received from parties.

**6.** The Ld.DR, on the other hand, supporting the order of the Ld.CIT(A), submitted that the assessee could not file any evidences including confirmation from the parties. The assessee also could not able to file necessary bank accounts to prove that said loan has been taken through proper banking channel. Further, notice issued u/s.133(6) of the Act, to both the parties returned unserved with a postal remark 'unclaimed'. These facts clearly establish non-genuineness of transactions between the assessee and parties. Therefore, the AO has rightly made additions and their orders should be upheld.

**7.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The assessee claims to have received unsecured loan of Rs.11 lakhs from M/s.New Star Enterprises and a sum of Rs.10,50,000/- from M/s.Tirupathy Steel Corporation. Admittedly, the assessee claims to have received loans in

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cash. Before the AO, the assessee could not file necessary explanation to explain the credits appearing in the name of both the parties. Further, notice issued u/s.133(6) of the Act, have been returned unserved with a remark 'unclaimed'. The assessee also could not able to file necessary financial statements of the creditors. Further, there is no evidence that the loans have been given by the parties. There are no entries in balance sheet of the assessee to prove that the assessee has received loans from these two parties. Further, when the parties are sending details through e-mail, then why they did not receive notice issued u/s.133(6) of the Act, was not explained by the assessee. From the above, it is very clear that the purported loans claimed from two parties appears to be non-genuine. It is a well settled principal of law by the decision of various courts, including the decision of the Hon'ble Supreme Court in the case CIT vs. Lovely Exports (P) Ltd. reported in (2008) 216 CTR 195 (SC), that initially onus is on the assessee to file necessary evidences, including name and address and their PAN details, etc. In this case, the assessee could not even able to file primary details like their proper address, confirmation letters, etc. Although, the assessee claims that the parties have responded through e-mail, but the details called for by the AO, has not been furnished. Therefore, we are of the considered view that the assessee could not able to satisfactorily explained credit towards unsecured loans claimed to have been received from above two parties. Hence, we are of the considered view that there is no error in the reasons given by the AO as well as the

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Ld.CIT(A) to sustain the addition made towards unsecured loans as unexplained cash credit and thus, we are inclined to uphold the findings of the Ld.CIT(A) and reject arguments of the assessee.

**8.** In the result, appeal filed by the assessee is dismissed.

Order pronounced on the 11<sup>th</sup> day of January, 2023, in Chennai.

**Sd/-**  
(महावीर सिंह)  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /VICE PRESIDENT

**Sd/-**  
(जी. मंजूनाथा)  
**(G. MANJUNATHA)**  
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,  
दिनांक/Dated: 11<sup>th</sup> January, 2023.  
**TLN**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF