

**THE INCOME TAX APPELLATE TRIBUNAL
DELHIBENCH 'F', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

Sh. Yogesh Kumar US, Judicial Member

ITA No. 9172/Del/2019 : Asstt. Year : 2016-17

Rajender Kumar Budhiraja, 123, Kamla Market, New Delhi-110002 (APPELLANT)	Vs	Income Tax Officer, Ward-46(4), New Delhi-110001 (RESPONDENT)
PAN No. ABAPK1744Q		

Assessee by : Smt. Rano Jain, Adv. &

Ms. Mansi Jain, Adv.

Revenue by : Sh. K. K. Mishra, Sr. DR

Date of Hearing: 07.12.2022

Date of Pronouncement: 01.03.2023

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)-16, New Delhi dated 11.10.2019.

2. Following grounds have been raised by the assessee:

"1. On the facts and circumstances of the case, the order passed by the Learned CIT(A) is bad both in the eye of law and on facts.

2. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in sustaining the addition made by the AO of Rs.1,40,00,000/- under section 68 of the Act.

3. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the order passed by the A.O., despite the fact that the A.O. has no jurisdiction to travel

beyond the scope of Limited Scrutiny, without getting the prior approval of the prescribed authority.

4. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the addition despite the assessee bringing all material and evidences on record to prove the source of amount.

5. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the addition despite the fact that the assessee being an individual, no books of accounts are maintained and as such no addition under section 68 is called for."

3. The only issue involved in the case is an addition of Rs.1,40,00,000/- made by the Assessing Officer u/s 68 of the Income Tax Act, 1961 which has been confirmed by the Id. CIT(A).

4. Facts pertinent to the adjudication of this issue are that while verifying the sources of investments made by the assessee during the year under consideration, the assessee explained to the AO that an amount of Rs.1,40,00,000/- was received from M/s Marvelous Beauty Pvt. Ltd. during the year under consideration. To prove this fact, the assessee filed the confirmation from M/s Marvelous Beauty Pvt. Ltd., the ITR of M/s Marvelous Beauty Pvt. Ltd. and also the bank statement explaining the corresponding loan entry. The AO requisitioned the assessee to prove the genuineness and creditworthiness of M/s Marvelous Beauty Pvt. Ltd., the loaner. The assessee submitted all the relevant documents through E-mail. However, the AO made the addition on the grounds that the assessee has not replied to notice dated 22.12.2018.

5. Before the Id. CIT(A), the assessee filed application under Rule 46A and also submitted that all these documents were duly filed before the AO and also submitted that these documents if not treated not to have been submitted before the AO, the same may be considered as additional evidences.

6. The Id. CIT(A) called for the remand report from the AO who stated that the sale agreement was not provided by the assessee and hence the receipts from the M/s Marvelous Beauty Pvt. Ltd. cannot be held to be genuine.

7. Heard the arguments of both the parties and perused the material available on record.

8. Before us, it was argued that the assessee had entered into a agreement to sell some property to M/s Marvelous Beauty Pvt. Ltd. during the year under consideration and as an advance against sale consideration an amount of Rs.1,40,00,000/- was received by the assessee. This transaction can be verified from the bank statement of the assessee and the corresponding entry in the bank statement of the lender. Since, the deal could not be materialized in the year under consideration, the amount was returned back by the assessee to M/s Marvelous Beauty Pvt. Ltd. All the confirmations, tax records are on record. The notice issued by the AO on the lender has also been duly served. The details of the property for sale has been mentioned from page 14 to 57 of the paper book which has been duly perused. The same has been ultimately sold also. Hence, we hold that the assessee has proved identity, creditworthiness of the lender and genuineness of the transactions, the purpose,

the mode of payment and also the mode of re-payment and the entire details thereof.

9. Hence, we hold that in the facts and circumstances of the instant case, no addition u/s 68 is called for.

10. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 01/03/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

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

Dated: 01/03/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR