

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'H' : NEW DELHI)
BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.1291/Del/2019, A.Y. 2013-14

Shri Vijay Pal Garg 2692/1, Gali Patteywali, Naya Bazar, Delhi-110006 PAN : ADQPG3144E	Vs.	Deputy Commissioner of Income Tax, Central Circle-5, New Delhi
(APPELLANT)		(RESPONDENT)
Assessee by	None	
Revenue by	Sh. Toufel Tahir, Sr. DR	

Date of hearing:	02.03.2023
Date of Pronouncement:	07.03.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been filed by the Assessee against order dated 31.01.2019 passed in appeal no. 127/2016-17 for assessment year 2013-14, by the Commissioner of Income Tax (Appeals)-24, New Delhi (hereinafter referred to as the First Appellate Authority or in short 'Ld. F.A.A.')

in regard to the appeal before it arising out of assessment order dated 31.03.2016 u/s 144/143(3) of I.T. Act, 1961 (hereinafter referred to as 'the Act') passed by ACIT, Central Circle-05, New Delhi (hereinafter referred as Ld. Assessing officer or in short Ld. AO).

2. Heard.

3. As the case was called for hearing, non – appeared for the assessee. The record shows that at earlier the notice is issued by registered post but received back to the report of the assessee has ‘left the given address’. No more notice is justified.

4. We have heard Arguments of Ld. DR who supported the findings of Ld. Tax Authorities below.

5. It can be appreciated that the return of assessee when processed u/s 143(1), notices were issued u/s 143(2) and thereupon as assessee failed to respond to the queries assessment order u/s 144/ 143(3) of the Act was passed making addition on account of disallowance of interest in respect of money allegedly borrowed for the purpose of the business or profession. Addition was made on account of unsecured loans as identity in creditworthiness of the borrowers would not justify and an addition u/s 14 read with rule 8D was made. The Ld. CIT(A) had deleted the addition u/s 14A read with rule 8D. It also allowed relief in part to the extent of 1,73,84,196/- against unexplained unsecured loans received by the assessee and has deleted the disallowance of interest following assessee’s own case judgment by the Tribunal for A.Y. 2011-12. Thus, assessee is now is in appeal primarily challenging the order of Ld. CIT(A) in upholding additions on account of unsecured loans from four parties.

6. Giving thoughtful consideration to the matter on record, it can be observed that as with regard to four parties , Ld. CIT(A) had observed in para no. 5.5.5 as follows :-

“5.5.5 It is observed that the appellant has furnished confirmation of the ledger account, copy of the acknowledgement of the return of income and its bank account in respect of the aforesaid four parties. The acknowledgement of return of income filed for Sh. Avinash Kanodia and Sh. Vikram Kanodia is not for the relevant assessment year and is for the AY 2014-15. Further in respect of M/s Jagat Overseas no ITR of that creditor is filed. The appellant

*has not filed the bank statements of the aforesaid creditors to verify the creditworthiness of such creditors. The evidences filed by the appellant do not discharge the burden in respect of the creditworthiness and genuineness of the transaction. The jurisdictional High Court in the case of **PCIT vs. Bikram Singh [2017] 399 ITR 407 (Delhi)** has held that mere establishing the identity and the fact that the amounts have been transferred through cheque payments, does not by itself mean that the transactions are genuine. The appellant has not furnished any loan agreement with such parties nor has established the creditworthiness of such parties and hence the addition made by the AO in respect of the sum of Rs. 2,34,00,000/-received by the appellant from such parties is hereby **confirmed**. Thus the appellant gets relief of Rs. 1,73,84,196/- Hence **Ground No. 3** of appeal is **partly allowed**.”*

7. In the absence of anything on record to contrary to justify that these factual findings are incorrect, the order of Ld. CIT(A) does not require interference, the ground is decided against the assessee. **Consequently, the appeal of assessee is dismissed.**

Order pronounced in the open court on 7th March, 2023.

Sd/-

(SHAMIM YAHYA)

ACCOUNTANT MEMBER

Date:-7th.03.2023

Binita, SR.P.S

Copy forwarded to:

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

Sd/-

(ANUBHAV SHARMA)

JUDICIAL MEMBER

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**