

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H': NEW DELHI**

**BEFORE,
SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.2819/Del/2019
(ASSESSMENT YEAR 2014-15)**

M/s Hylink Overseas (P) Ltd., 27, K.K. Store Tikri Kalan, Mundka, New Delhi-110 041 PAN-AAACH 9293H (Appellant)	Vs.	DCIT Circle Circle-11(2), New Delhi (Respondent)
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Appellant by	None
Respondent by	Ms. Sapna Bhatia, CIT-DR

Date of Hearing	06/04/2023
Date of Pronouncement	12/04/2023

ORDER

PER M. BALAGANESH AM:

1. This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-4, New Delhi [Ld. CIT(A)", for short], dated 28/02/2019 for Assessment Year 2014-15.
2. Grounds taken in this appeal are as under:

“1 That the addition of Rs.9,30,00,000/- made u/s 68 read with Section 115BBE of the Income-tax Act, 1961 (the Act) as made by the Assessing Officer and sustained by CIT(Appeals) is based on suspicion, arbitrary, unjust and bad in law.

2. That in the absence of any contrary evidence to the source of actual cash flow of Rs.9,30,00,000/- received from India Infoline Finance Ltd., the addition of Rs.9,30,00,000/- u/s 68 of the Act merely on the ground that in books it has been credited to the account of Mr. Vijay Kumar Gulati, is arbitrary, unjust and against the very purpose of Section 68 of the Act.

3. That the above grounds of appeal are independent and without prejudice to one another.

Your appellant craves leave to add, alter, amend or withdraw any of the grounds of appeal at the time of hearing.”

3. The only issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in confirming the addition made u/s 68 read with Section 115BBE of the Act in respect of loan received in sum of Rs.9,30,00,000/- in the facts and circumstances of the case.

4. None appeared on behalf of the assessee. This appeal was filed by the assessee on 02/04/2019 and the matter was first listed for hearing on 01/06/2022. From the first date of hearing, none appeared on behalf of the assessee despite service of notice at the address given by the assessee in Form No. 36. Hence we deem it fit and appropriate to dispose of this appeal on hearing the Ld.

Departmental Representative (in short DR) and based on materials available on record.

5. We find that the assessee is engaged in the business of trading of different items mainly pipes etc. The return of income for AY 2014-15 was filed by the assessee on 30/11/2014 declaring total income of Rs.1,15,24,222/-. We find that the assessee had borrowed sum of Rs.9,30,00,000/- from Kotak Mahindra Bank against the collateral security in the form of immovable property jointly owned by Mrs. Anita Gulati/Mrs. Ritika Gulati. In other words, the property owned by the Mrs. Anita Gulati and Mrs. Ritika Gulati were given as collateral security to Kotak Mahindra Bank, on the strength of which, the assessee borrowed loan from Kotak Mahindra Bank in earlier years. The assessee has been making payment of loan installments with interest on this borrowing. Later, Mrs. Vijaya Gulati, Hylink Overseas (P) Ltd., (assessee), Varada Expomark & Marketing (P) Ltd., Mr. Sidharth Gulati, Mrs. Anita Gulati and Mrs. Ritika Gulati preferred an application with India Infoline Finance Ltd. (IIFL) to borrow loan from IIFL. IIFL sanctioned the loan of Rs.9,30,00,000/- against the collateral property jointly

owned by Mrs. Anita Gulari and Mrs. Ritika Gulati. This loan was utilized for repayment of loan to Kotak Mahindra Bank in the sum of Rs.7,50,50,286/-; the balance amount of Rs.49,49,713/- and amount of Rs.1,12,45,614/- were credited to the account of Mr. Gulati which was paid to the assessee company. Accordingly, the assessee submitted that the loan of Rs.9,30,00,000/- received by it was sourced from IIFL through Mr. Vijaya Gulati. It is not in dispute that the Mrs. Vijaya Kumar Gulati (father of Shri Siddharth Gulati) was one of the Director of the assessee company. The assessee submitted the confirmation from Vijaya Kumar Gulati together with the Bank Statement, income tax return and computation of total income. The loan sanction letter issued by IIFL together with the repayment schedule was also placed on record before the Ld. AO. The assessee submitted that it had proved all the three ingredients of section 68 of the Act and accordingly, no addition is required to be made in respect of this loan received in the sum of Rs.9,30,00,000/- u/s 68 of the Act in the hands of the assessee company. The Ld. AO did not heed to the aforesaid contentions and proceeded to make an addition u/s 68 of the Act as

unexplained cash credit. This action of the Ld. AO was upheld by the Ld. CIT(A).

6. We find that the assessee has shown in its books that it had borrowed unsecured loan from Mr. Vijaya Kumar Gulati who had sourced the said loan out of borrowings from IIFL. From the perusal of the orders of the lower authorities, we find that there is no clear factual finding in this regard. It is a fact that loan sanction letter together with the repayment schedule from IIFL was placed on record before the Ld. AO. Due to continuous absence of the assessee before us, we are unable to get the suitable assistance in this regard to ascertain the factual situation. However, the fact of borrowings made from IIFL and the fact of loan sanction letter being placed on record before the Ld. AO is not disputed by the Revenue before us, considering the totality of the facts and circumstances of the case, we deem it fit to appropriate, in the interest of justice and fair play, to restore this issue to the file of the Ld. AO for *denovo* adjudication in accordance with law. The assessee is at liberty to furnish fresh evidences, if any, in support of its contentions. Needless to mention that the assessee be given reasonable

opportunity of being heard. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 12th April, 2023.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 12/04/2023

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI