

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

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.2458/Del/2022
Assessment Year: 2018-19

Valley Iron & Steel Co. Ltd., A-104/10, Wazirpur Ind. Area, New Delhi-110052	Vs.	ACIT, Central Circle, New Delhi.
PAN :AAACV4632N		
(Appellant)		(Respondent)

Appellant by	Abhimanyau Jhamba, Adv.
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	13.04.2023
Date of pronouncement	27.04.2023

ORDER

This is an appeal by the assessee against the order dated 05.08.2022 by the learned Commissioner of Income-Tax (Appeals) - 24, Delhi pertaining to assessment year 2018-19.

2. The dispute in the present appeal is confined to addition made of Rs.14,00,000 under Section 68 of the Income-Tax Act, 1961.

3. Briefly, the facts are, the assessee is a resident corporate entity. For the assessment year under dispute, assessee filed its return of income on 30.03.2019 declaring loss of Rs.2,95,10,267.
4. In course of assessment proceedings, the Assessing Officer noticed that in the year under consideration, the assessee has credited loan of Rs.14,00,000 stated to have been availed from M/s. Gee Wire Pvt. Ltd. Noticing this fact, the Assessing Officer called upon the assessee to prove the identity of the creditor, the genuineness of the loan transaction and the creditworthiness of the creditor by furnishing documentary evidences.
5. In response to the query raised by the Assessing Officer, assessee submitted that in order to meet the operational capability, the assessee took unsecured loan from the concerned party to procure fixed assets/capital goods required in the process of manufacturing of their finished goods. For this purpose, the assessee had also executed a loan agreement with M/s. Gee Wire Pvt. Ltd. However, the assessee submitted, since, the name of M/s. Gee Wire Pvt. Ltd. was struck off from the record of Registrar of Companies (ROC), the assessee could not furnish the ITR and other evidences to substantiate the

creditworthiness of the lender. The Assessing Officer did not find the reply of the assessee convincing. He observed, not only the name of the lender has been struck off by the ROC but there are no return of the lender available on the site of Ministry of Corporate Affairs (MCA). Accordingly, he proceeded to add the alleged unsecured loans of Rs.14,00,000 as unexplained cash credits under Section 68 of the Act. Though, the assessee contested the addition before the first appellate authority, however, it was confirmed.

6. Before me, learned counsel appearing for the assessee reiterated the stand taken before the departmental authorities and submitted, the assessee in fact had availed the unsecured loan from the lender. He submitted, though, the assessee could furnish the bank statement of the lender, however, other documents could not be furnished before the Assessing Officer as the company's name was struck from the record of ROC.

7. Alternatively, he submitted, in case, the assessee has not repaid the loan to the extent of such non-repayment the amount can be treated as cessation of liability under Section 41(1) and since it is a capital receipt, it cannot be brought to tax.

8. Learned Departmental Representative strongly relied upon the observations of the Assessing Officer and learned Commissioner (Appeals).

9. I have considered rival submissions and perused the material available on record.

10. The issue which arises for consideration is whether the assessee has sufficiently discharged its obligation under Section 68 of the Act by proving the identity of the creditor, the genuineness of the loan transaction and creditworthiness of the lender.

11. Undisputedly, the assessee has failed to furnish PAN details, address proof, loan confirmation, ITR copy of the lender. It is also a fact that the name of the concerned lender has been struck off in the records of ROC. Therefore, there is serious doubt regarding the existence of the lender company. The assessee has also failed to prove the creditworthiness of the lender coupled with genuineness of the transaction. That being the case, the unsecured loan availed of Rs.14,00,000 remains unexplained. Therefore, the addition made under Section 68 of the Act, in my view, is justified.

12. As regards, the alternative contention of the assessee that non-repayment of loan will amount to cessation of liability, I find the said submission preposterous. Once, there is serious doubt regarding the genuineness of the loan transaction and creditworthiness of the creditor, it is not understood how it can be treated as cessation of liability when the liability itself is non-genuine.

13. In view of the aforesaid, I do not find reason to interfere with the decision of the departmental authorities. Grounds are dismissed.

14. In the result, the appeal is dismissed.

Order pronounced in the open court on 27th April, 2023.

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 27th April, 2023.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi