

आयकर अपीलीय अधिकरण
रंची पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
RANCHI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री राजेश कुमार, लेखा सदस्य
एवं
श्री संजय शर्मा, न्यायिक सदस्य
के समक्ष
Before

**SRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 2/RAN/2019
Assessment Year: 2015-16**

ACIT, Circle-1(1), Dhanbad.....Appellant

Vs.

***M/s.- Himangsu Mahato.....Respondent
[PAN: AQVPM 5395 D]***

**C.O. No.: 1/RAN/2019
Assessment Year: 2015-16**

***M/s.- Himangsu Mahato.....Appellant
[PAN: AQVPM 5395 D]***

Vs.

ACIT, Circle-1(1), Dhanbad.....Respondent

Appearances by:

Sh. Pranob Kumar Koley, Sr. D/R, appeared on behalf of the Revenue.

Sh. Devesh Poddar, Adv., appeared on behalf of the Assessee.

Date of concluding the hearing : July 7th, 2023

Date of pronouncing the order : August 21st, 2023

ORDER

Per Rajesh Kumar, Accountant Member:

This appeal preferred by the Revenue and the cross objection filed by the assessee are against the order of Learned Commissioner of Income Tax (Appeals), Dhanbad [in short ld. 'CIT(A)'] dated 03.10.2018 for the Assessment Year (in short 'AY') 2015-16. First, we shall take up I.T.A. No. 2/RAN/2019.

I.T.A. No. 2/RAN/2019.

2. The only issue raised by the Revenue in various grounds of appeal is against the deletion of addition of Rs. 2,44,45,000/- by Ld. CIT(A) as made by The Assessing Officer (in short ld. 'AO') towards unexplained and non-substantiate unsecured loans.

3. The facts in brief are that during the course of assessment proceedings Ld. AO observed that the assessee has taken fresh loans of Rs. 2,44,45,000/- from M/s. Royal Securities Ltd. and accordingly called upon the assessee to justify the genuineness of the said loan. The assessee filed before Ld. AO the copy of bank account evidencing the transfer of funds from the lender to the assessee, copy of ITR with audited accounts and PAN details along with the address of the jurisdictional Assessing Officer, source of money etc. According to Ld. AO, there was huge transfer of money in the bank account of the assessee without having any specific business source. Finally, Ld. AO came to the conclusion that the assessee has failed to establish the creditworthiness of the lender and added the same to the income of the assessee u/s 68 of the

Act. Ld. AO also added interest paid on the said unsecured loan of Rs. 41,233/-.

4. In the appellate proceeding, Ld. CIT(A) allowed the appeal of the assessee by observing and holding as under:

“3.2 The above facts and submissions of the appellant have been considered. On perusal of assessment order, the Ld. A.O has mentioned that no compliance was made by the appellant to substantiate the unsecured loan while the appellant had produced all documents which were mentioned in assessment order. The Ld. A.O has ignored the submissions made, by the appellant like final account, bank statement, copy of the ITR of the loan creditors to establish creditworthiness of the loan creditors. The assessee during the year has taken fresh loan from Royal Securities Ltd. for Rs.24445000/- and earlier loan carried forwarded was Rs. 1050786/- altogether Rs.25495786/- out of which the assessee has paid Rs.2825112/- and balance Rs.2670674/- remain against which assessee has paid interest amounting to Rs.41233/- and TDS on interest has been made Rs.4123/- there by the ^closing balance of loan of M/S Royal Securities Ltd is Rs.2707784/-. The Learned Assessing Officer nowhere mentioned the details of transactions between the appellant and M/S Royal Securities Ltd. The dealing of landing and borrowing between the assessee and M/S Royal Securities Ltd is not the first time, it is continually in process and in all those assessment years the' borrowing from Royal Securities Ltd has been accepted under scrutiny assessment. The Learned Assessing Officer ignored the entire facts of the case, it is no doubt the appellant has taken fresh loan during the year amounting to Rs.24545000/- but the closing balance during the year is Rs.2707784/- against which interest has been credited and due taxes as per law has been deducted. The company assessment has been completed and accepted the return income filed by the creditor Company. The appellant has submitting herewith ledger copy of payment of transportation charges, photocopy of assessment order, audit report with Balance Sheet, ledger copy of loan in the books of creditors and bank account of creditors. In view of the above facts, the finding of the Learned Assessing Officer is not correct. During the course of appeal proceedings, the appellant has produced all the relevant documents to rebut the additions made by the Ld. A.O.

Accordingly, the addition of Rs.2,44,45,000/-, Rs.41,233/- on account of unsecured loan and interest charged on unsecured loan are hereby deleted.

With regard to the addition of Rs. 12,69,054/- on estimation basis @ 2% of Rs.6,34,52,735/- on account of transportation charge, to meet the ends of justice, it would be reasonable to estimate 1% of Rs.6,34,52,735/- which comes to Rs.6,34,527/- is sustained. The balance is deleted.”

5. After hearing rival contentions and perusing the material on record, we find that the assessee has taken unsecured loan of Rs. 2,44,45,000/- from M/s. Royal Securities Ltd. We also note that the opening balance brought forward from the preceding previous was Rs. 10,50,786/- with amount borrowed during the of Rs. 2,44,45,000 and thus, the aggregate of loan was Rs. 2,54,95,786/- out of which the assessee has repaid Rs. 2,28,25,000/- during the year and balance remained outstanding was only Rs. 26,07,898/- . The assessee has also paid interest amounting to Rs. 41,233/- after deduction of tax at source of Rs. 4,123/- and thus, the closing balance of loan outstanding to M/s. Royal Securities Ltd. was Rs. 27,07,784/-. We note that Ld. CIT(A) has discussed all these facts in the appellate order as extracted above. Ld. CIT(A) has also noted that in the earlier year, the loan from M/s. Royal Securities Ltd. has been accepted under scrutiny assessment but Ld. AO has ignored all these facts during the course of assessment proceedings. Ld. CIT(A) has also given a finding that lender's company assessment has been completed and the loan transactions with the assessee has been accepted by Ld. AO. We also note that Ld. CIT(A) has referred to the documents filed by the assessee such as copy of payment of transportation charges,

assessment order, audit report with balance sheet, copy of loan in the books of creditors and bank statement of the creditors and finally recorded a finding that the loan borrowed by the assessee was genuine one and the assessee has established and satisfied all the ingredients of Section 68 of the Act. Consequently, Ld. CIT(A) also allowed the interest on this loan of Rs. 41,233/- which was also disallowed by Ld. AO. Having considered all these facts and circumstances, we are of the opinion that Ld. CIT(A) has taken a reasoned view after discussing all the facts in detail. Therefore, we are inclined to uphold the order of Ld. CIT(A) by dismissing the appeal of the Revenue.

C.O. No. 1/RAN/2019

6. The cross objection is in support of the order of Ld. CIT(A) which has been upheld by us. Accordingly, the cross objection becomes infructuous and hence, dismissed.

7. In the result, the appeal filed by the Revenue in ITA No. 2/RAN/2019 and the CO No. 1/RAN/2019 are dismissed.

Kolkata, the 21st August, 2023

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 21.08.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. ACIT, Circle-1(1), Dhanbad.**
- 2. M/s.- Himangsu Mahato, Jorapokhar Basti, Jamadoba, Dhanbad-828 112.**
3. CIT(A), Dhanbad.
4. CIT-
5. CIT(DR), Ranchi Bench, Ranchi.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata