

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F", NEW DELHI
BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER,
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

I.T.A. Nos. 2875 to 2881/DEL/2022
A.Yrs.: 2013-14 to 2019-20

RUBY SINGH, R-543, NEW RAJINDER NAGAR, NEW DELHI – 110 060 (PAN: ANAPS3827J) (ASSEESSEE)	VS	DCIT, CENTRAL CIRCLE-8, NEW DELHI (RESPONDENT)
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Assessee by	:	Shri Gautam Jain, Adv. & Sh. Rajeev Sabharwal, CA
Department by	:	Shri Vivek Vardhan, Sr. DR.
Date of hearing	:	12.09.2023
Date of pronouncement	:	29.09.2023

ORDER

The captioned appeals have been filed by the assessee against the orders of Ld. Commissioner of Income Tax (Appeals)-24, New Delhi all dated 31.10.2022 for assessment years 2013-14 to 2019-20. Ground No. 1 is general in nature in all captioned appeals, which does not require any specific adjudication.

2. In all these appeals, the assessee has taken a common legal ground challenging the validity of initiation of reassessment proceedings u/s. 147 of the

Income Tax Act, 1961 (hereinafter in short 'Act') and issuance of notice u/s. 148 of the Act. For the sake of convenience brevity, we are taking appeal for AY 2013-14 as lead case for adjudication of legal grounds. The relevant ground no. 2 to 2.2 are as follows:-

“2. That the Ld. CIT(A) has erred both in law and on facts in upholding the initiation of proceedings under section 147 of the Act, and, completion of assessment under section 147(143(3) of the Act without appreciating that the same were without jurisdiction and hence, deserve to be quashed as such.

2.1 That the Ld. CIT(A) has failed to appreciate that there was no specific relevant, reliable and tangible material on record to form a “reason to believe” that income of the appellant had escaped assessment and in view thereof the proceedings initiated are illegal, untenable and therefore unsustainable.

2.2 That in the absence of any valid approval obtained under section 151 of the Act, initiation of proceedings u/s. 147 of the Act and assessment framed u/s. 147(143(3) of the Act are invalid and deserve to be quashed as such.

3. The Ld. Counsel for the assessee pressing into service above noted legal grounds submitted that the Ld. CIT(A) has erred both in law and on facts in upholding the initiation of proceedings u/s. 147 of the Act and completion of assessment u/s. 147/143(3) of the Act without appreciating that the same were without jurisdiction and hence, deserve to be quashed as such. The Ld. Counsel for the assessee further pointed out that the First Appellate Authority has failed to

appreciate that there was no specific, relevant, reliable and tangible material on record to form a reason to believe that the income of the appellant for the relevant assessment year had escaped assessment and in view thereof the proceedings initiated are not only illegal, but untenable and unsustainable. The Ld. Counsel for the assessee also pointed out that in the absence of any valid approval obtained as per the requirement of section 151 of the Act, the initiation of proceedings u/s. 147 of the Act and reassessment order framed u/s. 147(143(3) of the Act has to be held as invalid and deserve to be quashed.

3.1 Precisely reiterated written submissions dated 12.09.2023, the Ld. Counsel for the assessee summarised his contentions on legal grounds by vehemently submitting the following contentions :-

- i) Proceedings have been initiated on the basis of no material much less intangible material and relevant material as such and the reasons recorded by the AO do not constitute valid reasons to believe for initiating proceedings u/s. 147 of the Act and it is a clear case of “reasons to suspect” and not “reason to believe” and therefore, the AO did not assume valid jurisdiction to initiate the reassessment proceedings.
- ii) The initiation of proceedings are based on non-application of mind much less independent application of mind to the irrelevant material and thus the reasons recoded are nothing but borrowed satisfaction of the AO

- which cannot be taken as valid basis for initiation of reassessment proceedings against the assessee.
- iii) The reassessment proceedings initiated by the AO are based on surmises and conjectures and suspicion, therefore, the same are without jurisdiction and not sufficient to meet the legal requirement for assuming the valid jurisdiction to initiate the reassessment proceedings and to issue notice u/s. 148 of the Act.
 - iv) The Ld. Counsel has also vehemently pointed out that the approval granted u/s. 151 of the Act is a mechanical approval and hence initiation of proceedings u/s. 147 of the Act are also invalid on this account.
 - v) Pressing into service proposition rendered by the Hon'ble Supreme Court of India in the case of Parimiseti Setharamamma vs. CIT reported in 57 ITR 532 (SC) and other propositions the Ld. Counsel submitted that the deposits in the bank account cannot be mechanically or automatically assumed the income of the appellant without any further verification and examination by the AO and therefore, the reason to believe as noted by the AO in the satisfaction note is nothing, but reason to suspect which obviously resulted into inevitable invalidation of reassessment proceedings. Therefore, initiation of reassessment proceedings and impugned reassessment order may kindly be quashed.


3.2 Replying to the above, Ld. Sr. DR drawing our attention towards para no. 4.1.5 to 4.1.8 of the First Appellate order and submitted that Ld. CIT(A) has adjudicated this issue by considering the totality of facts and circumstances of the case which are quite correct and justified. The Ld. Sr. DR further submitted that the case of the appellant was reopened u/s. 147 of the Act on the basis of reasons summarised by the Ld. CIT(A) in para 4.1.5 which are self speaking and therefore, the AO had valid reason to believe that an amount minimum to the extent of Rs. 82,96,000/- has escaped assessment for the assessment year 2013-14. The Ld. Sr. DR also pointed out that a survey operation u/s. 133A of the Act was conducted and during the survey in those cases transactions pertaining to the appellant were found and the reasons for reopening of assessment recorded on the basis of the documents impounded during the course of survey and on the basis of the statements of certain parties recorded during and post survey investigations. The Ld. Sr. DR supported the conclusions drawn by the Ld. CIT(A) submitted that as per the survey and post survey investigations, it was revealed that the appellant could not satisfactorily explained the source of cash deposits in her bank account despite given opportunity and hence the AO had no alternative but to proceed to initiate the reassessment proceedings. Ld. Sr. DR also submitted that the loans for acquiring property by the assessee had been sourced from the persons who have sourced those loans from cash deposits, therefore, the capacity and creditworthiness of unsecured loan creditors and genuineness of transaction was misplaced and thus, the AO was right in having and forming reason to believe that income pertaining to the amount unsecured loan has also escaped assessment.

3.2.1 Ld. Sr. DR also submitted that the AO was in possession of adequate material indicating the escapement of income and had carried out necessary analysis such as correlating the same with the income tax return filed by the

assessee as well as statements recorded during the course of investigations. The Ld. Sr. DR strenuously contended that the reason to believe that income had escaped assessment were framed after proper analysis and examination of facts based on the available data with the AO. Therefore, the reasons recorded by the AO for initiation of reassessment proceedings were quite correct based on logical interpretation of facts supported by concrete, tangible, adequate and relevant material to form a believe that income had escaped assessment for the relevant assessment years. Ld. Sr. DR lastly submitted that the reasons recorded were based on tangible material related to the assessee and were sufficient and adequate to form the reason to believe that income had escaped assessment, therefore, the AO assumed valid jurisdiction to initiate the reassessment proceedings, to issue notice u/s. 148 of the Act and to frame reassessment order u/s. 143(3) of the Act read with section 147 of the Act. Ld. Sr. DR thus, submitted that legal grounds of the assessee may kindly be dismissed.

3.3 Placing the rejoinder to the above submissions, Ld. Counsel for the assessee submitted that it is a clear case of reasons to suspect and not reason to believe, therefore AO did not assume valid jurisdiction to initiate the reassessment proceedings particularly when the proceedings are based on surmises, conjectures and suspicion therefore, the same have to be held as without jurisdiction and hence, deserved to be quashed.

3.4 On careful consideration of the above submissions, first of all, we find it necessary and appropriate to reproduce the reasons recorded by the AO for initiation of the reassessment proceedings for AY 2013-14 as follows:-



Annexure A

Details of the Assessee:

The assessee filed her return of income on 04.01.2014 for the assessment year 2013-14 declaring income of Rs.9,28,691/-. As per ITBA system, the return of the assessee was processed u/s 143(1) on 01.08.2014 by CPC thereby generating a refund of Rs. 34,741/-. The assessee is the sole proprietor of M/s Moonage Films and claims to have professional expertise in creative serial & documentary making. The assessee in her ITR has declared her income under the following heads:

Income from salary	0
Income from Business and profession	429700
Income from Capital Gain	524900
Income from House property	0
Income from Other sources	95117

The assessee in her ITR has disclosed Rs.2,56,942/- cash in hand.

2. In this case, information was received that a survey action was conducted on 11.09.2020 in the case of M/s SLG Commodities Pvt. Ltd. (Address- 2637, 1st Floor, Naya Bazar, Delhi-110006), M/s Kirti India Hospitality Pvt. Ltd (Address- Flat No. 05/A, Kalakriti Apartment, Morabadi, Ranchi) & M/s

Maan Promtors Pvt. Ltd (Address- House No. 357/A, Professor colony, Karamtoli, Ranchi). During the course of survey in the above noted cases, transactions pertaining to Ms. Ruby Singh, Proprietor of M/s Moonage Films, were found.

As a result of further enquiries, it became evident that the assessee, over several years, is indulging in tax evasion practices like unexplained unsecured loans, huge unexplained cash deposits, unexplained credits in the form of salary and unexplained immovable property transactions.

Suspicious Transactions

3.1 Unexplained Cash Deposit:

As per the information received, it was found that the Ms. Ruby Singh for the AY under consideration has made the following cash deposit:

Bank Name and Acc	AY 2013-14	Source
1. Standard Chartered Bank (52910029713)	2,96,000/-	Unexplained

The same fact was confronted with Ms. Ruby Singh during recording her statement dated 14.10.2020 u/s 131 of the Income Tax Act, 1961 wherein she failed to provide any documentary evidence to justify the source of such huge cash deposit and, as has been observed in the later part of this note, failed to explain the nature, source and genuineness of such huge cash deposits in her bank accounts.

3.2 Unexplained Property Transaction

As per the information received, it was found that the Ms. Ruby Singh for the AY under consideration was involved in following unexplained immovable property transaction:

S. No.	Details of property	Sold/acquired	Immediate and ultimate source of investment
1	F-268, first floor, new rajinder nagar	Acquired & sold within 4 Months	Unexplained
2	R-543, top floor, new rajinder nagar	Acquired and still holding	Unexplained

The source of investment in the immovable property along with necessary details like sale/purchase deed etc was specifically asked during recording her statement dated 14.10.2020 u/s 131 of the Income Tax Act, 1961. However, the assessee failed to provide sufficient documentary evidence to justify the source of such huge investment in immovable property and thus it remained unexplained.

Findings leading to Reason to believe of Escapement of Income

4.1 Unexplained Cash Deposit:

As per the information, it was alleged that Ms. Ruby Singh has been indulging in making huge cash deposits in different bank accounts.

Bank Name and Acc	AY 2013-14 (Rs.)	Source
1. Standard Chartered Bank (52910029713)	2,96,000/-	Unexplained

It can be clearly seen from the table above that the assessee is depositing huge cash. The same fact was confronted with Ms. Ruby Singh, during her statement dated 14.10.2020 u/s 131, for which she failed to explain the purpose and source.

In this regard, financials of Ms. Ruby Singh were pursued from ITBA system and it was found that her operating revenue do not support such cash deposits/credits in her bank accounts given the fact that none of her projects/films/serials have been aired in the last 6 years.

In view of the above facts, it is prima-facie evident that Ms Ruby Singh has failed to explain the genuineness of these transactions and the sum of Rs. 2,96,000/- credited in cash in her bank account is unexplained cash credits.

4.2 Unexplained Property Transaction

As per the information received, it was alleged that Ms. Ruby Singh for the AY under consideration was involved in following immovable property transaction:

S. No	Details of property	Sold/acquired	Immediate and ultimate source of investment
1	F-268, first floor, new rajinder nagar	Acquired & sold within 4 months	Unexplained
2	R-543, top floor, new rajinder nagar	Acquired and still holding	Unexplained

To ascertain the genuineness of the immovable property transaction done by the assessee, purchase deed of the property R-543, Top Floor, New Rajinder Nagar was examined and found that this property was acquired on 04.09.2012 for Rs. 80 lakh.

Further, bank Statement of Ms Ruby Singh reveals that an amount of Rs. 25 lakh and Rs 50 Lakh has been received on transfer from joint a/c of Dalpat Singh and Ummed Singh (Linked PAN APUPS2619J), A/c No. 30780100001515 with Bank of Baroda and A/c No 51101307304 State Bank of Bikaner & Jaipur. A further perusal of these accounts showed that these amounts were sourced from cash deposits in these accounts.

In order to verify the net worth and genuineness of transactions routed from bank account of Umed Singh, his ITR profiling was done using ITBA system which is tabulated as under.

UMMED SINGH (APUPS2619J)			
	F.Y.		
	2011-12	2012-13	2013-14
Total Sales/Gross receipts of business	2120940	0	0
Income from Salary	0	0	0
Income from House Property		0	0
Capital Gain	0	0	0
Income from Business or Profession	901576	964516	1008618
Income from Other sources	11500	46013	0
Gross Total Income	913076	1010529	1008618
Total Income	813080	910530	908620

The profile clearly suggests that financials of Sh Umed Singh are not commensurate with the huge cash deposits in his bank accounts.

In view of the above facts, it is evident that fund for acquisition of the said property have been mobilized by depositing cash in joint a/c of Dalpat Singh and Umed Singh and forwarding of the same to the assessee. The nature of transaction from Dalpat Singh and Umed Singh and the business expediency of the same have not been explained by the assessee. Ms Ruby Singh has failed to explain the genuineness of funds for these immovable property transactions.

5. In view of the above, I have reasons to believe that an amount minimum to the extent of Rs.82,96,000/- has escaped assessment in the case of Ms Ruby Singh for the A.Y. 2013-14 within the meaning of section 147/148 of the Income Tax Act, 1961.

6. As the case falls under clause (b) of explanation 2 to Section 147 of the Income Tax Act, 1961, I am satisfied that it is a fit case for issue of notice u/s 148 of the Income Tax Act, 1961.

3.5 From the First Appellate order's relevant paras, we note that Ld. CIT(A) has dismissed the legal grounds of assessee with the following observations and findings:-

“4.1.5 The case of the appellant was reopened under 147 of Income Tax Act on the basis of the following summarized reasons to believe of escapement of income:

1. It is prima facie evident that Ms. Ruby Singh has failed to explain the genuineness of these transactions (cash deposits in the bank) and the sum of Rs. 2,96,000/- credited in cash in her bank account as unexplained cash credits.

2. Bank statement of appellant reveals that amounts of Rs. 25,00,000/- and Rs. 50,00,000/- has been received on transfer from joint account of Dalpat Singh and Singh. Further perusal of these accounts shown that these accounts were sourced from cash deposits in these accounts. The IT profiling clearly suggest that financials of Sh. Singh are not commensurate with huge cash deposits in his bank accounts. In view of these facts, it is evident that fund for acquisition of said property had been mobilized by depositing cash in joint account of Dalpat Singh and Singh and forwarding of the same to the appellant. The nature of transaction from Dalpat Singh and Singh and the business expediency of the same have been explained by the appellant. The appellant has failed to explain the genuineness of funds for these immovable property transactions.

In view of the above, the Assessing Officer had reasons to believe that an amount minimum to the extent of Rs. 82,96,000/- has escaped assessment in the case of the appellant for the AY 2013-14 within the meaning of Section 147/148 of Income Tax Act.

4.1.6 Survey under 133A of Income Tax Act were conducted in certain cases. During the course of survey in those cases, transaction pertaining to the appellant were found. The reasons for reopening of assessment were recorded on the basis of document impounded during the course of survey and on the basis of statements of certain parties recorded during and post survey investigations. As per the survey and post survey investigation the appellant could not satisfactorily explain the source of cash deposits in her bank account. Further, the loans for acquiring the property have been

sourced from the persons who have sourced these loans from cash deposits.

4.1.7 I have gone through the reasons recorded for reopening of assessment and it is obvious that the Assessing Officer was in possession of adequate material indicating the escapement of income and had carried out necessary analysis such as correlating the same with the income tax return filed as well as the statements recorded during the course of investigation. The reasons to believe that income had escaped assessment were framed after proper analysis and marshalling of facts based on the available data. Therefore the reasons recorded by the Assessing Officer were logical, concrete, tangible, adequate and relevant to form a reasonable belief that the income has escaped assessment.

4.1.8 In my considered opinion, the reasons recorded were based on tangible material and were logical and adequate to form reasons to believe that income has escaped assessment. Subsequently, these reasons have resulted in addition on these grounds in the assessment order. On the basis of discussion above, I am of the considered opinion that the jurisdiction w/s 147 of Income Tax Act has been correctly invoked in this case and accordingly, the Ground Nos 1, 13 & 14 of the appeal are dismissed.”

3.6 On careful consideration of rival submissions as noted above, reasons recorded by the AO for initiation of reassessment proceedings and conclusion drawn by the Ld. CIT(A), at the very outset, we note that the AO initiated the reassessment proceedings u/s. 148 of the Act on the basis of reasons as precisely summarised below:-

(i) The assessee failed to explain the genuineness of transaction of cash deposit to her bank account and the amount of Rs. 2,96,000/- deposited in cash to her bank account remained unexplained.

(ii) The bank statement of assessee further revealed that amount of Rs. 25 lacs and Rs. 50 lacs were received on

transfer on joint account of Sh. Dalpat Singh and Sh. Ummed Singh.

(iii) It was also revealed from the bank statements of the said two persons that the amounts of unsecured loans provided to the assessee were sourced from cash deposits in the bank accounts of creditors of Sh. Dalpat Singh and Sh. Ummed Singh before further transfer to the Bank account of assessee.

(iv) The AO also noted that the copies of income tax returns of the said two creditors clearly reveals that the financial capacity of Sh. Umed Singh was not in commensurate with the huge cash deposits to his bank account. Thus, in view of above noted facts the AO observed that the funds for acquisition of immovable property by the assessee had been mobilised by depositing cash in the joint account of Sh. Dalpat Singh and Sh. Umed Singh and which was further transmitted to the assessee as unsecured loan for purchase of property.

(v) The AO after considering and evaluating the documentary evidence before him form the reason to believe that the transaction of unsecured loan from Sh. Dalpat Singh and Sh. Umed Singh with the assessee has not been explained by the assessee as the assessee has failed to explain the capacity and creditworthiness of creditors and genuineness of transaction and thus she failed to explain the genuineness of funds used by the assessee towards purchase of immovable property.

(vi) The AO has evaluated the material before him, before forming reason to believe that the income has escaped assessment. The material considered by him was self speaking and revealing the facts that the assessee has deposited the cash to her bank account and has also taken unsecured loan which were remained unexplained and therefore, the AO had valid reason to believe that income has escaped assessment. It is pertinent to mention that a survey operation u/s. 133A of the

Act was also conducted and in certain cases, during the course of survey in those cases the transactions pertaining to present appellant were found. The AO has also taken care the documents impounded during the course of survey and the statement of certain persons recorded during and post survey investigations. It was also revealed that as per survey and post survey investigations the appellant could not satisfactorily explained the source of cash deposits to her bank account and therefore the source of unsecured loan, for acquiring the immovable property, was sourced by the creditors from cash deposits to their bank accounts.

3.7 On careful consideration of the above noted factual matrix, we observe that the AO had recorded the detailed reasons for reopening of assessment wherein the relevant documentary evidences including the documentary evidence found during the course of survey operation and statements recorded during and post survey operations were in possession of AO which was sufficient material indicating the escapement of assessment by the assessee. The AO also carried out the necessary analysis and examination of the said material, correlating the same with the income tax returns filed by the assessee as well as the statement recorded during the course of investigations. Therefore, the AO had sufficient reasons to believe that income had escaped assessment and therefore, he rightly invoked the action u/s. 147 of the Act for initiation of reassessment proceedings and for issuance of notice u/s. 148 of the Act and thus, he assumed valid jurisdiction to frame the reassessment order u/s. 147 / 143(3) of the Act, after proper analysis and evaluation of facts based on

available evidences. Therefore, we decline to accept the contentions of Ld. Counsel for the assessee that the AO had proceeded to initiate the reassessment proceedings without having tangible material and the reasons recorded do not constitute valid reason to believe for initiation of reassessment proceedings. We are unable to see any factual mistakes by the AO which could establish non-application of mind by the AO while recording the reasons, when the AO has evaluated the bank statements of the assessee as well as the creditors and the assessee failed to substantiate the source of cash deposits and the genuineness of the transactions of unsecured loan then the AO was validly entitled to have reason to believe that income had escaped assessment. The Hon'ble High Court of Madras in the case of PVP Ventures Pvt. Ltd. vs. ACIT (2016) 65 Taxman.com 221 (Mad) held that justification of reopening of assessment has to be tested only on the strength of order recording reason for reopening u/s. 148(2) of the Act. Further, in the case of Peass Industrial Engineering (P) Ltd. vs. DCIT (2016) 73 Taxman.com 183, it was held that if substantial new material is found in the form of information on the basis of which assessing authorities can form reason to believe that income of assessee had escaped assessment then it is always open to the AO to initiate assessment u/s. 147 of the Act. Hence, respectfully following the said propositions, we hold that the AO assumed valid jurisdiction to initiate reassessment proceedings u/s 147 of the Act. Therefore, the contention of the Ld.

Counsel for the assessee that the deposits in the bank account cannot be mechanically assumed to be the income of the appellant also does not hold water. Therefore, the legal contentions of the Ld. Counsel for the assessee raised in Grounds of Appeal No. 2 to 2.1 are dismissed.

3.8 Apropos Ground no. 2.2, we are unable to see any ground by the assessee before the Ld. CIT(A) challenging the approval granted u/s. 151 of the Act. From the relevant para for approval order, we note that Ld. CIT(A) has categorically stated and observed that after perusing the relevant material and reasons recorded by the AO, he is satisfied that it was a fit case of reopening assessment u/s. 147 and issuance of notice u/s. 148 of the Act and accordingly, ground no. 2.2 of the assessee being devoid of merits is also dismissed.

4. The Ground no. 3 to 4.1 are reproduced as under:-

- “3. *That the Ld. CIT(A) has also erred both in law and on facts in sustaining an addition of Rs. 75,00,000/- representing sums received from Sh. Singh as unsecured loan and erroneously held as unexplained cash credit under section 68 of the Act.*
- 3.1 *That the Ld. CIT(A) has failed to appreciate that the unsecured loan aggregating to Rs. 75 lacs had been received through banking channels from indentifiable party who had duly confirmed the same that loan had been advanced by them to the appellant and as such, addition so made is invalid and untenable.*
- 3.2 *That the ld. CIT(A) has failed to appreciate that assessee has led complete documentary evidence in support of the unsecured*

loans so as to discharge the onus under section 68 of the Act and therefore, the addition sustained on subjective and arbitrary assumptions is contrary to law and hence untenable.

3.3 That the ld. CIT(A) has failed to appreciate the relevant evidence placed on record and drawn factually incorrect and legally unsustainable inferences based on irrelevant and extraneous consideration and thus, addition made is wholly unwarranted and not in accordance with law.

4. That the Ld. CIT(A) has further erred both in law and on facts in upholding an addition of Rs. 2,05,000 representing the alleged unexplained cash credit under section 68 of the Act.

4.1 That while confirming the above addition, the ld. CIT(A) has failed to appreciate the factual substratum of the case, statutory provisions of law and as such, addition so confirmed is highly misconceived, totally arbitrary, wholly unjustified and therefore, unsustainable.”

4.1 Apropos Ground no. 3 to 3.3, Ld. Counsel for the assessee submitted that Ld. CIT(A) has erred both in law and on facts in sustaining the addition of Rs. 75 lacs representing sums received as unsecured loans from Sh. Umed Singh and erroneously held that the same was unexplained cash credit u/s. 68 of the Act. The Ld. Counsel for the assessee vehemently pointed out that Ld. CIT(A) has failed to appreciate that unsecured loan aggregating to Rs. 75 lacs had been received through banking channels from identifiable party/creditor who had confirmed that loan had been advanced by them to the appellant. Therefore, the addition made by the AO is invalid and untenable as the assessee discharged onus as per the

requirement of section 68 of the act by submitting all the relevant documentary evidence establishing identity and creditworthiness of creditor alongwith genuineness of transaction, therefore, the addition sustained on subjective and arbitrary assumption has to be held as invalid and contrary to law and the same may kindly be deleted. Ld. Counsel for the assessee strenuously pointed out that Ld. CIT(A) has failed to rightly appreciate the relevant evidences placed on record and has drawn the factually incorrect and illegal, unsustainable inference and conclusions based on irrelevant and extraneous considerations and thus addition made may kindly be deleted being wholly unwarranted and not in accordance with law.

4.2 Replying to the above, Ld. SR DR, drawing our attention towards the relevant paras of assessment as well as Ld. CIT(A) orders, submitted that AO issued notice asking the assessee to explain the source of amount used for purchase of immovable property i.e. Flat No. R-543, New Rajinder Nagar, New Delhi, but the assessee failed to furnish any documentary evidence regarding agreement or instrument with the creditor pertaining to such unsecured loan. The Ld. Sr. DR also pointed out that AO has issued summons u/s. 131 of the Act to Sh. Ummed Singh on 5.11.2020 with the directions of personal deposition alongwith documents mentioned in the notice, but no response was received from. Sh. Ummed Singh inspite of the reminder to the summons issued. Ld. Sr. DR further

submitted that AO in order to ascertain the genuineness of transaction and source considered the copy of bank statements and return of income of Sh. Singh for the year under consideration and observed that there was huge cash deposit before transfer of funds to the assessee by way of issuing cheques to the assessee amounting to Rs. 75 lacs which were credited in the bank account of the assessee. Ld. Sr DR also submitted that the return of income clearly reveals that no substantial income has been declared by the creditor Sh. Ummed Singh during three previous assessment years from the year under consideration and therefore, the creditworthiness of unsecured loan creditors could not be established and hence, the AO was validly empowered and entitled to invoke the provisions of section 68 of the Act in treating the unsecured loan as unexplained credit in the hands of the assessee and taxing the same u/s. 115BBE of the Act.

4.3 Further drawing our attention towards the relevant observations noted by the Ld. CIT(A) in the First Appellate order vide para no. 4.3.25 to 4.3.26, the Ld. SR. DR submitted that Ld. CIT(A) also considered action of the AO, documentary evidence filed by the assessee and explanation thereto and thereafter rightly held that the genuineness of loan transaction and creditworthiness of creditor/lender Sh. Ummed Singh and others was not established and therefore, the AO reached to a correct conclusion that unsecured loan of Rs. 75 lacs is nothing, but unaccounted cash of assessee which was routed through bank account of Sh. Ummed Singh for

camouflaging the funds as unsecured loans and ultimately accounting the same in the appellant's books of account as unsecured loans. Ld. Sr. DR also submitted that Ld. CIT(A) rightly upheld the finding of the AO by observing that the AO has correctly considered the unsecured loan of Rs. 75 lacs as appellant's own funds and added the same to her income as unaccounted cash credit u/s. 68 of the Act. Ld. Sr. DR submitted that while adjudicating the contention of assessee, the Ld. CIT(A) rightly held that in the present case, where the assessee is maintaining the books of accounts and the amount of loan of Rs. 75 lacs has been mentioned in the balance sheet of the assessee then the appellant's contention, that the loan was not part of the books of accounts and hence not covered u/s. 68 of the Act, is incorrect and devoid of merits. Finally, Ld. Sr. DR submitted that in view of concurrent finding of the authorities below, it is clear that the AO has rightly made the addition u/s. 68 of the Act in the hands of the assessee pertaining to the unsecured loan amounting to Rs.75 lacs and Ld. CIT(A) was also correct and justified in upholding the same.

4.4 Placing rejoinder to the above, Ld. Counsel for the assessee submitted that merely because there was some cash deposit to the bank account of the creditor does not automatically destroy the creditworthiness of the loan creditors, the AO was duty bound to bring on record some positive adverse material against the alleged loan creditors to show and establish that the cash deposit made to the bank

account of Sh. Ummed Singh was the cash belonging to the assessee which was given by the assessee to Sh. Ummed Singh for remitting the same through banking channel as unsecured loan back to the assessee. Ld. Counsel for the assessee further pointed out that unless such fact is established by way of plausible and sustainable adverse material against the assessee, no addition u/s. 68 or any other provisions of the Act can be made in the hands of the assessee.

4.5 On careful consideration of the above submissions, first of all, from the relevant part of the Ld. First Appellate order, we note that AO made addition u/s. 68 amounting to Rs. 75 lacs with the following observations and findings:-

“3.1 On perusal of the bank A/c statement of the assessee, it has been found that an amount of Rs. 25 Lakh and Rs.50 Lakh has been received on transfer from joint Alc of Dalpat Singh and Singh (linked PAN- APUPS2619J), A/c No.30780100001515 with Bank of Baroda and joint account of Singh and Harsh Kanwar (linked PAN- APUPS2619J A/c No. 51101307304 with State Bank of Bikaner & Jaipur respectively. Further perusal of these account showed that these amounts were sourced from cash deposits in these accounts.

3.2 Further, a notice was issued to the assessee regarding the huge transaction with Dalpat Singh and Singh and assessee complied in response of the notice by stating that she has taken loan of amount of Rs. 75 Lakh from Sh. Singh on interest free basis as a friendly loan for purchase an immovable property Flat R-543, New Rajender Nagar, New Delhi, but the assessee failed to furnish any documentary evidence regarding agreement or instrument for such loan. Hence, a summon us 131 of the Act, was issued to the Singh on 5.11.2021 with direction of personnel deposition alongwith documents mentioned in the same. No response has been received from Singh in spite of reminder to the summon being issued.

3.3 However, to ascertain the genuineness of the transaction and source and creditworthiness of income of Sh. Singh, the Bank A/c statement and ROI of Sh. Singh for the year under consideration was perused and it has been observed that there was huge cash deposit before the transfer (issuing cheque to Ruby Singh) of amount of Rs.75

Lakh in the Bank A/c of the assessee. Further, on the perusal of IT of Sh. Singh it is revealed that no substantial income declared by the Sh. Singh in his ROI in three previous years from the year under consideration.

<i>UMEED SINGH(APUPS2619J)</i>			
	<i>F.Y.</i>		
	<i>2011-12</i>	<i>2012-13</i>	<i>2013-14</i>
<i>Total sales/Gross Receipts of Business</i>	<i>2120940</i>	<i>0</i>	<i>0</i>
<i>Income from salary</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Income from house property</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Capital gain</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Income from B & P</i>	<i>901516</i>	<i>964516</i>	<i>1008618</i>
<i>Income from other sources</i>	<i>11500</i>	<i>4603</i>	<i>0</i>
<i>Gross total income</i>	<i>913076</i>	<i>1010529</i>	<i>1008618</i>
<i>Total income</i>	<i>813080</i>	<i>910530</i>	<i>908920</i>

3.4 Form the detailed source of income of sh. Singh, it is evident that the same had not such an adequate source of income or had no reserve funds to facilitate a loan of amount to Rs. 75 Lakh to any person during the year under consideration. Further, as huge cash deposit has been seen in the joint a/c of Dalpat Singh and Singh and the financial profile of the same clearly suggests that Sh. Singh has not been commensurate with the huge cash deposits in his bank accounts. Further, in absence of compliance of summon issued to Sh. Singh, the source of huge cash deposits and its nature remains unverified.

3.5 Moreover, it seems irrational that why an entity would provide such a huge loan without any legal agreement as well as interest free and an isolated attempt has been seen from the side of assessee in respect of repayment of loan and the same view has been reflected from the side of Sh. Singh (Loan Giver). Further, assessee has not been made repayment of the said loan or part repayment of the same as per the reply dated 17.01.2022 against show cause issued on 10. 1.2022. In view of the above facts, it is evident that fund for acquisition of the said property have been mobilized by depositing cash in joint alc of Dalpat Singh and Singh and forwarding of the same to the assessee. The nature of transaction from Dalpat Singh and Singh and the business relation of the same with assessee have not been explained by the assessee. Also, Ms Ruby Singh failed to explain the source and creditworthiness of funds for purchasing the said immovable property transactions. Hence, a show cause was issued to the assessee in respect of unsecured loan.

3.6 Further, the assessee complied to the show cause notice and on perusal of the reply, it is seen that the same is not tenable and therefore, the issue of unsecured loan

remains unverified. Also, the unsecured loan provider entity i.e. Singh did not appear against summon us 131 alongwith the documents as required, so the genuineness of the transaction as well as creditworthiness of creditor and source of loan amount remains unverified.

3.7 Therefore, as per discussion in para 3.1 to 3.6, it is clearly evident that the unsecured loan of amount to Rs. 75 lakhs is nothing but unaccounted cash of the assessee which was routed through bank account for camouflaging the fund as unsecured loan and ultimately accounted the same in her books of account. Under these circumstances, the unsecured loan of amount to Rs. 75 lakhs is treated as assessee's own fund and added accordingly in her income as unaccounted cash credit u/s 68 of the I.T. Act, 1961 for the A.Y. under consideration.”

4.6 Further from relevant para of the First Appellate order, we note that Ld.

CIT(A) has upheld the addition with the following observations and findings :-

4.3.8 During the course of assessment proceedings, on perusal of bank account statement it has been found that amounts of Rs. 25,00,000/- & Rs. 50,00,000/- were received on transfer from joint account of Sh. Dalpat Singh and Sh. Singh account No. 30780100001515 with Bank of Baroda and joint account of Sh. Singh and Sh. Harsh Kanwar account No. 51101307304 with State Bank of Bikaner & Jaipur respectively. The Assessing Officer had noted that these amounts of Rs. 25,00,000/- and Rs. 50,00,000/- deposited in appellant's account were sourced from cash deposit in above mentioned accounts.

4.3.9 The appellant during the course of assessment proceedings conveyed that she has taken loan of amount of Rs. 75,00,000/- from Sh. Singh on interest free basis as a friendly loan for purchase of an immovable property but the appellant did not furnish any documentary evidence regarding agreement or instrument of such loan. Summons w/s 131 of the Income Tax Act were issued to Sh. Singh on 05.11.2021 with a direction of personal deposition along with documents however, no response was received from Sh. Singh inspite of a reminder.

4.3.10 To ascertain the genuineness of the transition and source and creditworthiness of Sh. Singh, the Assessing Officer analysed the return of income of Sh. Singh of three previous years. Perusal of the return of income indicated that Sh. Singh did not have adequate source of income or had no reserve funds to facilitate a loan of amount of Rs. 75,00,000/-. These loans have been sourced from the cash deposits in the bank accounts. The financial profile of Sh. Singh was not found commensurate with huge

cash deposits in his bank account. Further, in the absence of compliance of summons issued to Sh. Singh the cash deposits remained unverified.

4.3.11 The Assessing Officer argued that it is irrational that why an entity would provide such a huge loan without any legal agreement and without charging any interest. Further, these loans are still outstanding and have not been repaid yet. In the opinion of Assessing Officer the appellant failed to explain the source and creditworthiness of the funds used for purchasing the immovable property. Based on the facts mentioned above the Assessing Officer has found his opinion that the unsecured loan of Rs. 75,00,000/- is nothing but unaccounted cash of the appellant which was routed through bank account for camouflaging the fund as unsecured loan at ultimately accounted the same in her books of account. Accordingly he treated the unsecured loan of amount Rs.75,00,000/- as assessee's own funds and edited accordingly in her income as unaccounted cash credit u/s 68 of Income Tax Act.

4.3.12 The appellant contended that the loan received from Sh. Singh should be considered as genuine as he had provided the following during the course of proceedings:

- i. Copies of bank account from where the loan were given by the lender.
- ii. Copy of bank statement of the appellant in which the loans were received.
- iii. Copies of No. of 8 cheque received.
- iv. Income Tax Return of Sh. Singh for three years.
- v. Confirmation of loan received.

4.3.13 To ascertain the genuineness of transaction and creditworthiness of Sh. Singh, the Income Tax Return of Sh. Singh for AY 2012-13, 2013-14 & 2014-15 are perused and are summarized as under:

	AY 2012-13	AY 2013-14	AY 2014-15
Total sales/Gross Receipts of Business	21,20,940	0	0
Income from salary	0	0	0
Income from house property	0	0	0
Capital Gain	0	0	0
Income from B & P	9,01,516	9,64,516	10,08,618
Income from other sources	11,500	46,013	0
Gross total income	9,13,076	10,10,529	10,08,618
Total income	8,13,080	9,10,530	9,08,920

On perusal of the above table, it can safely be concluded that the total income of Sh. Singh is not so much that he can genuinely extend an interest free loan of Rs.75,00,000/- to the appellant.

4.3.14 As per the confirmation of loans submitted during the course of appellate proceedings, the confirmation has been issued by Sh. Singh HUF (Karta), PAN-AAGHD5908J. This PAN belongs to Dalpat Singh HUF. The details of confirmation are reproduced as under:-


CONFIRMATION

This is to confirm that unsecured personal friendly loan was landed to Ms. Ruby Singh, R/o 28/35, Top Floor, Old Rajinder Nagar, New Delhi, now R/o R-543, New Rajinder Nagar, New Delhi. The details of cheques issued are as follows:

S. No.	Date	Cheque No.	Bank Name & A/c No.	Amount
1	12/05/2012	836529	SBBJ (51101307304)	Rs. 9,00,000 /-
2	14/05/2012	836527	SBBJ (51101307304)	Rs. 9,00,000 /-
3	14/05/2012	836526	SBBJ (51101307304)	Rs. 9,00,000 /-
4	15/05/2012	836531	SBBJ (51101307304)	Rs. 5,00,000 /-
5	15/05/2012	836530	SBBJ (51101307304)	Rs. 9,00,000 /-
6	15/05/2012	836528	SBBJ (51101307304)	Rs. 9,00,000 /-
7	15/05/2012	510285	BANK OF BARODA (30780100001515)	Rs. 15,00,000 /-
8	15/05/2012	510284	BANK OF BARODA (30780100001515)	Rs. 10,00,000 /-

The amount of loan was given out of personal savings and accumulated funds in the bank account. The bank account details are mentioned above. The amount was given from HUF a/c of Sh. Dalpat Singh jointly operated by Sh. Ummed Singh, son of Sh. Dalpat Singh.

The copy of income tax return along with computation is attached herewith.


 Ummed Singh HUF (KARTA)
 S/o Sh. Dalpat Singh
 R/o 435, Rajputon Ki Dhani
 Sangarner (Jaipur)
 Pan No. AAGHD5908J

4.3.15 On perusal of above confirmation, the following inconsistencies were observed:

- i. As per the confirmation the amount of loan was given from HUF account of Sh. Dalpat Singh, which is jointly operated by Sh. Singh.
- ii. The bank account in the State Bank of Bikaner & Jaipur is in the name of Sh. Singh and Harsh Kanwar and is linked to PAN- APUPS2619J. This PAN pertains to Sh. Singh. Therefore, this bank account does not pertain to Dalpat Singh HUF and pertains to Sh. Singh only. Therefore, Sh. Singh cannot issue the confirmation for the loan extended from this account in the capacity of Karta of the HUF.

iii. *The bank account in Bank of Baroda is in the name of Sh. Dalpat Singh is linked to PAN-APUPS2619J. This PAN pertains to Sh. Singh and not to Dalpat Singh HUF.*

iv *As per the information available with the Department the HUF's PAN AAGHD5908J is linked to the Bank account # 30780100000109 in Bank of Baroda. No loan has been extended from this account of Dalpat Singh HUF.*

Therefore, it can be observed that the above confirmation have been issued by Sh. Singh in the capacity of Karta of Singh HUF for alleged loan extended from a HUF accounts of Sh. Dalpat Singh. Both the accounts mentioned in the confirmation does not belong to either Dalpat Singh HUF or the Singh HUF. Further, the HUF's PAN is linked to another accountant and not any of these two accounts mentioned in the confirmation. In view of the discrepancies mentioned above the confirmation filed above cannot be considered as genuine and correct.

4.3.16 *The bank statement Account No. 30780100001515 of Sh. Dalpat Singh in Bank of Baroda have been analysed and it has been observed that an amount of cash of Rs. 25,00,000/- as deposited on 09.05.2012 and two cheques amounting to Rs. 10,00,000/- and Rs. 15,00,000/- were issued to Ms. Ruby Singh on 16.05.2012. The balance in the bank account prior to the receipt of cash and subsequent to issuance of cheque was Rs. 2,86,040/- only. Therefore, Sh. Dalpat Singh and/or Sh. Singh and/or their HUFs were not in the capacity to extend such a loan unless the cash of Rs. 25,00,000/- was deposited. The source of this cash remains unknown as Sh. Singh did not attend the proceedings under 131 of Income Tax Act before the Assessing Officer.*

4.3.17 *The bank statement of Sh. Singh in the bank account No. 51101307304 of State Bank of Bikaner & Jaipur have been analysed and it has been observed that prior to 08.05.2012 the balance in the bank account was Rs. 1,65,992/-. On 08.05.2012 there were cash deposits of Rs. 9,50,000/-, Rs. 9,00,000/-, Rs. 6,50,000/-, Rs. 9,00,000/-, Rs. 9,00,000/-, Rs.7,00,000/- (totaling to Rs. 50,00,000/-) and loans to Ms. Ruby Singh were issued amounting to Rs. 50,00,000/- from 14.05.2012 to 16.05.2012. The balance in the account subsequent to the issuance of cheque was Rs.1,65,992/- only. Therefore, Sh. Singh was not in the capacity to extend a loan of Rs.50,00,000/- unless cash deposits amounting to Rs. 50,00,000/- were made in his bank account. The source of this cash remains unknown as Sh. Singh did not attend the proceedings under 131 of Income Tax Act before the Assessing Officer.*

4.3.18 *The appellant during the course of assessment proceedings conveyed that she has taken loan of amount of Rs. 75,00,000/- from Sh. Singh on interest free basis as a friendly loan for purchase of an immovable property but the appellant did not furnish any documentary evidence regarding agreement or instrument of such loan. Normally such a*

huge amount of loan is expected to be accompanied by a loan agreement or some sort of paper work.

4.3.19 The alleged loan was taken by the appellant in 2012 for purchase of immovable property. The loan was interest free and was not accompanied by any loan agreement. Even after a gap of around 10 years the loan is still outstanding and has not been repaid. It is surprising to note that neither any interest have been paid nor the principal has been repaid in last around 10 years. The property has been purchased and is being beneficially utilised by the appellant. Sh. Singh had never made any claim or correspondence or attempt to seek his money back. The loan has been given by Sh. Singh out of the balance in bank which was created by cash deposits immediately preceding the issuance of cheques for loan. Sh. Singh never complied to the summons issued by the Assessing Officer. There has been inconsistencies in the confirmation filed by Sh. Singh as pointed out earlier and the confirmation cannot be considered as correct.

4.3.20 On the basis of the discussion above, perusal of bank accounts, confirmation and circumstances during issuance of loans, the following points are noteworthy:

- i The loan was extended in 2012 and even after a gap of around ten years the loan is still outstanding.*
- ii. No interest was either payable or paid during this period.*
- iii. No attempt was made by Sh. Singh to reclaim his amount.*
- iv. No loan agreement was prepared for this loan.*
- v. There are several inconsistencies in the confirmation filed by Sh. Singh and the confirmation cannot be treated as correct.*
- vi. All these loans were issued out of the amount of cash deposited in the bank accounts of Sh. Singh and others immediately prior to the issuance of cheques for loans.*
- vii. Sh. Singh did not comply to the summons issued by the Assessing Officer and therefore, the source of cash deposit in their bank accounts remains unexplained.*

4.3.21 During the course of appellate proceedings, the appellant submitted the following:

"As already stated, the appellant was maintaining books of accounts of proprietorship firm Ms Moonage Films for which the balance sheet was prepared and filed along with the return of income ws 139(1) of the Income Tax Act (Copy of income tax return, balance sheet and computation of income is enclosed for

your kind perusal) wherein the current account of OBC Bank was part of the books of accounts and balance sheet.

The assessee also maintained a savings bank account with Standard Chartered bank for which no books of accounts were maintained. The loan of Rs. 75,00,000/- was received in the savings bank account of the assessee.

The assessee filed a return of income in response to notice u/s 148 wherein for the sake of convenience/ presentation the loan received was incorporated in the balance sheet filed. On the liabilities side the loan capital were reflected and on the asset side property purchased and saving bank account balance was shown.

The loan of Rs. 75,00,000 was personal in nature and was not part of books of accounts and hence is not covered u/s 68 of the Income Tax Act. The same was incorporated in balance sheet of M/s Moonage Films only for presentation purposes. Hence same should not be covered us section 68 of the Income Tax Act.

In the Grounds of Appeal no. 3, the appellant has rightly challenged the invoking of section 68 of the Income Tax Act in regard to loan of Rs. 75 lacs received in his savings bank account.

The copy of balance sheet filled u/s 139(1) with income tax return enclosed herewith for your consideration. The balance sheet filed in response to notice u/s 148 is once again enclosed herewith, the difference is explained herein in para 3 above.

Moreover the cash deposited during the year in savings account was explained in reply dated 22/07/2022. As far as opening cash in hand as per books of accounts of proprietary firm Ms Moonage Films as on 01.04.2012 is concerned, the opening cash balance can be verified from the balance sheet as on 31.03.2012 which is attached for your record. The copy of income tax return for AY. 2012-13 is also attached herewith. The opening cash in hand as on 01.04.2013 is therefore explained.

Hope that the above explanation would suit your requirements and would clear all doubts regarding the cash deposits/cash in hand, loan of Rs 75 lacs and applicability of Section 68 of the income tax act. The explanation regarding section 68 applicability forms part of our earlier submissions in Para 12.2 & 12.3 of letter dated 20.06.2022. If any further explanation or information is required in this regards, appellant will be pleased to submit the same.

Meanwhile thanking you and assuring of all the cooperation in the matter.”

4.3.22 Thus the appellant conveyed that she was maintaining the books of accounts of the proprietorship firm M/s. Moonage Films for which the balance sheet was prepared and the current account of OBC Bank was part of books of accounts and balance sheet. Further, the loan of Rs.75,00,000/- was received in the saving bank account with the Standard Chartered Bank for which no books of account were maintained. The appellant conveyed that the loan of Rs.75,00,000/- was personal in nature and was not part of books of accounts and hence is not covered us 68 of the Income Tax Act. On perusal of grounds of appeal it is noted that this issue was not included in any of the grounds submitted by the appellant in the appeal and therefore is not required to be adjudicated. However, it is noted that the assessment was made u/s 147 of Income Tax Act and a notice us 148 was issued to the appellant for filing of return of income. In response to the notice u/s 148 the appellant filed return of income a copy of which was made available during the course of appellate proceedings.

4.3.23 On perusal of the return of income it is noted that the Part A-BS heading mentions "Balance sheet as on 31S day of March 2013 OF THE PROPRITORY BUISNESS OR PROFESSION (fill items below in case where regular books of accounts are maintained, otherwise fill item 6)".

Following salient points were noted on perusal of this part:

1. Fixed assets	
a. Gross : Block	9702889
3. Current assets, Loans & Advances	
a. Current assets	
iii. Cash and Bank balances	
A. Cash in hand	256942
B. Balance with banks	1253813

4.3.24 On analysis of the data above, the following has been observed:

(i) This data is to be filled up for proprietary business or profession where the regular books of accounts are maintained. Therefore, the appellant is maintaining regular books of accounts.

(ii) The gross blocks of fixed assets contains the property purchased by the appellant for which the loan was taken from Sh. Singh.

(iii)The balance with banks includes the balances of both the Oriental Bank of Commerce and Standard Chartered Bank and not just the Oriental Bank of Commerce as conveyed by the appellant.

(iv) Therefore, the return of income which have been verified by the appellant clearly indicates that the Standard Chartered Bank account, where the loan was received is part of the regular books of account of the appellant.

(v) The loan taken in the Standard Chartered Bank and the property purchased through that loan, both have found manifestation in the regular books of accounts maintained by the appellant.

(vi) Further, in the case of the appeal in subsequent years also it is noted that the receipt in Standard Chartered Bank in several cases also forms the part of proprietorship business of Moonage Films. There are several receipts which have been received in Standard Chartered Bank which belongs to the proprietorship business of appellant. Therefore, it would be inappropriate to accept that entries in Standard Chartered Bank are not recorded in the books of accounts of the appellant.

4.3.25 This is a case where the regular books of accounts are being maintained by the appellant. On the basis of the observations above it is proved that the appellant is maintained regular books of accounts and all her bank accounts, assets have been included in those books of accounts and the same have found manifestation in fixed assets, balance with bank etc. Therefore, the appellant's contention that the loan was not part of books of account and hence not covered us 68 of the Income Tax Act is incorrect and devoid of any merit. As pointed out earlier this was not a ground of appeal taken by the appellant, which is required to be adjudicated and argument also fails on merits. The return of income duly verified by the appellant and filed in response to notice us 148 is the very basis of assessment and that highlights that the appellant is maintaining regular books of accounts and which contains the loan transaction and all the bank accounts of the appellant. Accordingly, the argument of the appellant that the loan was not a part of books of account and hence not covered us 68 of Income Tax Act is devoid of merit and therefore rejected.

4.3.26 On the basis of the issues observed above, I am of the considered opinion that the genuineness of the loan transaction and creditworthiness of Sh. Singh and others is not proved. The Assessing Officer has reached to the correct conclusion that the unsecured loan of Rs.75,00,000/- is nothing but unaccounted cash of the assessee which was routed through bank account for camouflaging the fund as unsecured loan and ultimately accounted the same in appellant's books of account. The Assessing Officer has correctly considered the unsecured loan of amount of Rs. 75,00,000/- as appellant's own funds and added them in her income as unaccounted cash credit us 68 of Income Tax Act. This is a case where the appellant is maintaining books of accounts and the loan of Rs. 75,00,000/- finds mention in the balance sheet of the appellant. The source of the cash deposit in the bank accounts of Sh. Singh and others remains unexplained and therefore, creditworthiness of Sh. Singh remains doubtful. The appellant used her own unaccounted

money for managing unsecured loan/s to buy a property. In my considered opinion, the alleged loan transaction is only a device to channelize appellant's own money as unsecured loan. Therefore, I do not find any reason to interfere with the order of the Assessing Officer and the addition made by the Assessing Officer us 68 of Income Tax Act amounting to Rs. 75,00,009/- is hereby confirmed. Accordingly, Ground Nos. 3 to 8 of appeal are dismissed.

4.7 On careful consideration of the above rival submissions, basis and conclusion drawn by the AO, observations of Ld. CIT(A) while upholding the addition (supra) and on careful perusal of Paper Book filed by the assessee, first of all, we note that the action of initiation of reassessment proceedings u/s. 147 of the Act issuance of notice u/s. 148 of the Act was triggered when the AO received the documentary evidence including the bank statements of assessee, bank statement of joint account of creditor Sh. Ummed Singh and Sh. Dalpat Singh, copy of income tax return of Sh. Ummed Singh and documentary evidence showing acquisition of immovable property by the assessee after receiving unsecured loan of Rs. 75 lacs from said lender. Thus, the very basis for initiation of reassessment proceedings was unsecured loan and cash deposit to the bank account of the assessee. The AO asked the assessee to explain the source of unsecured loan received from Sh. Singh and assessee filed the copies of her bank account, copy of bank statement of joint account held by Sh. Ummed Singh and Sh. Dalpat Singh and copy of income tax returns of Creditor, Sh. Ummed Singh. The AO made the addition u/s. 68 of the Act by observing that the assessee could not establish the creditworthiness of creditors and genuineness of transaction as there was huge cash deposit to the bank account of creditor Sh. Ummed Singh immediately before transmission of amount / issuance of cheque in favour of the assessee, therefore, the source of unsecured loan was cash deposit to the bank account of the loan creditor and the AO recorded a final finding that the unsecured loan of Rs. 75 lacs was nothing but unaccounted cash of the assessee which was routed through

banking account for camouflaging the funds as unsecured loan and ultimately accounted the same in her bank account. After observing as above, the AO concluded that unsecured loan of Rs. 75 lacs is assessee's own funds and accordingly added the same to the income of the assessee as unaccounted cash credit u/s. 68 of the Act.

4.7.1 On cumulative consideration finding recorded by the AO as well as Ld. CIT(A), we note that during the course of proceedings, the assessee submitted the copies of bank account of Sh. Ummed Singh from where loan were given by lender /creditor, copy of bank statement of appellant in which unsecured loan were received, copies of cheque received by the assessee, copy of income tax returns of creditors Sh. Ummed Singh for three years and confirmation issued by him. From the copies of income tax returns of creditor Sh. Ummed Singh, it was revealed that he declared gross total income of Rs. 9,13,076/-; Rs. 10,10,529; Rs. 10,08,618/- for assessment years 2012-13; 2013-14 and 2014-15 respectively. Ld. CIT(A), however, noted that the entire unsecured loan was received by the assessee, through the banking channel from Sh. Ummed Singh, but from his bank account with the State Bank of Bikaner and Jaipur and Bank of Baroda, on evaluation of the facts stated in the confirmation issued by Lender Sh. Ummed Singh, the Ld. CIT(A) in para no. 4.3.15 noted that some glaring facts and rightly concluded that confirmation had been issued by lender Sh. Ummed Singh in the capacity of Karta of Ummed Singh, HUF for alleged loan extended to assessee from HUF account of

Sh. Dalpat Singh. The Ld. CIT(A) noted that both the accounts mentioned in the confirmation do not belong either to Danpat Singh HUF and Umed Singh HUF and HUF's PAN Nos. are linked to another account and not any of those accounts mentioned in the confirmation. In view of above factual finding destroying the sustainability of confirmation, the Ld. CIT(A) rightly concluded that discrepancies mentioned in the confirmation filed by the assessee cannot be considered as genuine and correct.

4.7.2 Thereafter, the Ld. CIT(A) observed that cash amount of Rs. 25 lacs was deposited on 09.05.2012 and two cheques amounting to Rs. 10 lacs and Rs. 15 lacs were issued to the assessee on 16.05.2012 and prior to deposit of cash and issuance of cheque in favour of the assessee, the bank balance was remained same at Rs. 2,86,040/-. The CIT(A) thus rightly observed that Sh. Dalpat Singh and / or Sh. Umed Singh and / or HUF were not in the capacity to extent such loan unless the cash of Rs. 25 lacs was deposited to the respective bank accounts. Ld. CIT(A) rightly concluded that the source of the said cash remains unknown and unexplained as Sh. Umed Singh did not attend the proceedings in response to notice u/s. 131 of the Act before the AO. The Ld. CIT(A) further observed that the bank statement of Sh. Umed Singh No. XXXXX7304 in the Bank of Bikaner and Jaipur reveals that prior to 08.05.2012 balance in the bank was Rs. 1,65,992/- on 08.05.2012 there was cash deposits of Rs. 50 lacs in 06 installments and unsecured

loan amounting to Rs. 50 lacs was given to assessee through cheque from 14.05.2012 to 16.05.2012. The Ld. CIT(A) also observed from the bank statement of the said bank account of Sh. Ummed Singh that the balance in the bank accounts subsequent to the issuance of cheques in favour of the assessee was again reduced to Rs. 1,65,992/-. In view of this factual finding, Ld. CIT(A) rightly concluded that the source of cash remains unexplained and unknown as Sh. Ummed Singh did not attend the proceedings u/s. 131 of the Act before the AO. Ld. CIT(A) also noted that there was no unsecured loan agreement between the assessee and Sh. Ummed Singh and the loan was given without charging any interest. The Ld. Counsel for the assessee on being specifically asked could not controvert the above factual position and findings recorded by the authorities below except submitting that merely because there was cash deposit in the bank account of creditor prior to issuance of cheques in favour of the assessee does not automatically makes unsecured loan as unexplained cash credit in the hands of the assessee. The ld. Counsel for the assessee, on being asked by the Bench submitted that he has no information in his hand as to whether the assessee has paid any interest on the impugned unsecured loan or has repaid the same to the creditor Sh. Ummed Singh. Therefore, we safely hold that such fact of non-payment of any interest on unsecured loan and conduct of assessee in not returning back the amount of unsecured loan till date i.e. after the lapse of more than 10 years is

against the normal behaviour of a man of ordinary prudence as in case the assessee is not willing to pay interest or make repayment of unsecured loan then the unrelated lender Sh. Ummed Singh should have taken some recourse for recovery of unsecured loan from the assessee. Keeping in view above conduct of assessee and lender/ creditor, we have no hesitation to hold that both are not placing on record the real character of transaction. These glaring facts cumulatively established that the transaction of unsecured loan was bogus and the assessee failed to explain the source of such unsecured loan by way of establishing capacity & creditworthiness of creditor and genuineness of transaction.

4.8 In view of foregoing discussions, we reached to a logical conclusion that since in the present case assessee was maintaining regular books of accounts and therefore the contentions of assessee that loan was not part of books of accounts and hence not covered u/s. 68 of the Act was rightly held as unsustainable and untenable as the assessee had shown amount of unsecured loan of Rs. 75 lacs and her balance sheet for the relevant financial year 2012-13, relevant to present assessment year 2013-14. It is a settled principle of tax jurisprudence that for claiming creditworthiness of the creditors and genuineness of transactions of unsecured loan the onus is on assessee to prove that the creditor was having capacity and creditworthiness to extend the loan and thus the transaction was genuine. In the present case undisputedly the assessee filed the copies of bank

statements of creditor, copy of income tax return and confirmation issued by Sh. Ummed Singh alongwith the copy of assessee's bank account in which unsecured loan was received. But merely filing said documentary evidence is not sufficient to discharge the onus as per mandate of section 68 of the Act particularly when there was factum of cash deposit to the bank account of creditors immediately before issuance of cheques to the assessee as unsecured loan. The Ld. CIT(A) has noted a detailed and categorical finding destroying the factual correctness of confirmation issued by Sh. Ummed Singh and his capacity to extend the unsecured loan amounting to Rs. 75 lacs to the assessee. In view of above observations, we hold that the other hand, the AO and Ld. CIT(A) recorded categorical finding that the assessee failed to explain and prove the creditworthiness of loan creditor and genuineness of transaction of unsecured loan received by her for purchase of immovable property. Therefore, we reach to a logical conclusion that AO was quite correct and justified in treating the unsecured loan as unexplained cash credit in the hands of the assessee while invoking the provisions of section 68 of the Act and the Ld. CIT(A) was also correct in upholding the same after detailed logical analysis of documentary evidence, allegations of the AO and explanation of the assessee. Accordingly, we are unable to see any valid reason to interfere the findings affirmed by the Ld. CIT(A) while confirming the addition u/s. 68 of the

Act in the hands of the assessee, hence, we uphold the same. Accordingly, the ground no. 3 to 3.3 of assessee are dismissed being devoid of merits.

5. Ground No. 4 and 4.1

5.1 Apropos ground no. 4 and 4.1, Ld. Counsel for the assessee submitted that Ld. CIT(A) also erred in law and on facts in upholding the addition of Rs. 2,05,000/- representing the alleged unexplained cash credit u/s. 68 of the Act. The Ld. Counsel vehemently pointed out that in the reasons the AO himself noted that as per return of income for AY 2013-14 there was cash in hand of Rs. 2,56,942/- then no addition on the allegation of unexplained cash deposit can be made to the income of assessee. He vehemently pointed out that while confirming the said addition, the Ld. CIT(A) has failed to appreciate the factual circumstances of the case, statutory provisions of the law which do not allow the AO to make such baseless addition and the Ld. CIT(A) upheld the same based on arbitrary and wholly unjustified reasoning, therefore, the same may kindly be deleted.

5.2 Replying to the above, Ld. Sr. DR submitted that at the time of recording satisfaction for initiation of reassessment proceedings u/s. 147 of the Act, the AO noted that the fact of cash deposit to the bank account of the assessee which was also a strong and valid basis for reopening of assessment. The ld. Sr. DR submitted that the cash in hand of Rs. 2,56,942/- shown in the return of income for AY 2013-14 was not opening cash balance but it was closing cash in hand at the

end of financial period on 31.03.2013. Accordingly, the same cannot be considered as valid basis explaining source of cash deposit. He vehemently contended that the AO from the return of income for AY 2012-13 noted that at the end of financial period on 31.3.2012 which was to be brought forward as opening cash in hand on 1.4.2012 was NIL. The ld. Sr. DR submitted that from the copies of the returns of income of assessee for AY 2012-13 and AY 2013-14 (for the year under consideration) clearly reveals that there was no opening cash in hand with the assessee at the beginning of financial period on 1.4.2012 and the cash in hand noted by the AO in the return amounting to Rs. 2,56,942/- was cash in hand at the end of year on 31.3.2012, thus the same was shown as closing cash in hand in the return for AY 2013-14. The assessee herself has shown closing cash balance of Rs. 2,56,942/- in the cash in hand factual tabulation reproduced by the AO in the assessment at page 6 top para. Therefore, explanation of assessee towards source of cash deposit was rightly dismissed by the AO being factually incorrect and thus untenable.

5.3 The Sr. DR further submitted that there were cash deposits in the Standard Chartered Bank of assessee during month of April, May and July, 2012 totalling to Rs. 2,05,000/-. Ld. Sr. DR further submitted that the AO issued show cause notice to the assessee and in compliance to the same, assessee filed the documentary evidence, but the same was not found to be plausible and sustainable by the AO as

per the issues raised in the show cause notice and thus the source of cash deposit was remained unverified and thus unexplained. The Ld. Sr. DR further submitted that the assessee has furnished inaccurate particulars in the submissions as cash in hand shown in the statement before the AO was distinct and different from cash in hand shown in 'her' income tax returns for AY 2012-13 and 2013-14. The Ld. Sr. DR also submitted that the assessee is sole proprietor of M/s Moonage Films, therefore, how there can be two separate cash in hand and two cash books for a single PAN No. Ld. Sr. DR submitted that assessee failed to reconcile the opening cash in hand as on 1.4.2012 with the income tax returns of previous year AY 2012-13, therefore, the AO rightly made the addition of Rs. 2,05,000/- in the hands of the assessee u/s. 68 of the Act on account of unexplained cash deposit to her bank account.

5.4 On careful consideration of submissions from the relevant part of the assessment order, we note that the AO made addition in the hands of the assessee with the following observations and findings :-

“4.2. The reply of the assessee has been perused but not found tenable in respect of cash deposit on the following reasons:-

i) On perusal of ROI for AY 2012-13, it is found that assessee has declared cash in hand NIL/- as (on 31.3.2012) the same will be opening cash in hand as on 01.04.2012. But the assessee has submitted following cash in hand details for F.Y.2012-13:

Re: Ruby Singh, PAN No. ANAPS3827J, Reply to notice u/s 142(1) of the Income Tax Act, 1961, A.Y. 2013-14.

In the above please find enclosed herewith the following for your kind consideration:

1. **Statement of affairs:** Balance sheet and Profit and loss a/c for the year ended 31.03.2013 is attached herewith. The balances in the balance sheet are the statement of affairs except the cash in hand of the assessee in her personal capacity. Cash flow statement for the financial year 2012-13 (AY 2013-14) is as follows:

	Moonage A/c	Ruby Singh (Personal)
Opening Cash in hand	Rs. 40,322 /-	Rs. 5,30,202.50 /-
Add: Withdrawal from Bank	Rs. 8,10,000 /-	Rs. 19,09,000 /-
	Rs. 8,50,322 /-	Rs. 24,39,202.50 /-
Less: Deposit in Bank	-----	Rs. 2,96,000 /-
Cash Exp.	Rs. 3,48,380 /-	-----
Cash Drawings	Rs. 2,45,000 /-	Rs. 18,23,900 /-
Closing Balance	Rs. 2,56,942 /-	Rs. 3,19,302 /-

Further, this discrepancy in cash in hand was pointed out in the show cause dated 21.12.2021 and assessee was asked to reconcile the same. The assessee failed to explain why there is different opening cash in hand for the same PAN. The reply is not tenable as the sole proprietorship firm and the person who has control over the firm should be treated as one entity and the financial credential should reconcile. Further, assessee failed to furnish the explanation as how the cash in hand on personal a/c and on proprietorship a/c should be different. The following accounting of assessee does not match with accounting standard of AS-1 which required true and fair disclosure. As the assessee has declared Rs. NIL as closing cash in hand in the ROI for AY 2012-13, the same is allowed as opening cash in hand for this financial year i.e. 2012-13. Cash in hand on personal account is remained unverified and it is not considered as genuine cash in hand of assessee.

ii) The assessee has submitted the details of month wise cash flow statement depicting opening balance, cash deposit, cash withdrawal from the bank is as follows:

The month wise cash flow statement depicting the opening balance, cash deposit, cash withdrawal from the bank is as follows:

S. No.	Date/ Month	Particulars & Bank Name	Cash Withdrawal	Cash Deposit
	2012-13	Opening Balance Rs. 5,70,524/-		
1.	01/04/2012	Stamp duty for F-268		
2.	16/04/2012	For Property F-268		
3.	April	Standard Chartered		Rs. 35,000/-
4.	May	Standard Chartered	Rs. 10,000/-	Rs. 30,000/-
5.	July	Standard Chartered	Rs. 50,000/-	Rs. 1,40,000/-
6.	September	Oriental Bank of Commerce	Rs. 1,25,000/-	
7.	October	Standard Chartered	Rs. 10,99,000/-	
8.	November	Standard Chartered	Rs. 2,60,000/-	
9.		Oriental Bank of Commerce	Rs. 1,00,000/-	
10.	December	Standard Chartered	Rs. 2,21,000/-	
11.		Oriental Bank of Commerce	Rs. 70,000/-	
12.	January	Standard Chartered	Rs. 40,000/-	
		Oriental Bank of Commerce	Rs. 5,00,000/-	
13.	February	Standard Chartered	Rs. 1,49,000/-	
		Oriental Bank of Commerce	Rs. 15,000/-	
14.	March	Standard Chartered	Rs. 80,000/-	Rs. 91,000/-
		Total	Rs. 27,19,000 /-	Rs. 2,96,000 /-

From the above submission, it can be seen from the ROI of A.Y. 2012-13 that the opening cash in hand with assessee was NIL for the A.Y. 2013-14. The assessee has submitted two different cash book for personal account and for the proprietorship. The same cannot be relied as there cannot be two separate cash book for the year.

iii) Further, on perusal of Bank a/c statement, reply dated 26.11.2021 and Month wise cash flow, it is observed that assessee paid Rs.18,900/- in cash on 1.4.2012 and Rs. 2,10,000/- on 16.4.2012 as part payment for purchase of immovable property. Moreover, assessee had the total cash in hand upto July was Rs. 50,000/-(opening cash in hand Rs. NIL/- and cash withdrawal of Rs.50,000/-) whereas the total cash paid by the assessee upto July was Rs. 2,28,900. How can assessee deposit Rs.2,05,000/-upto July whereas assessee has made more expance in cash than available? The excerpt of reply dated 26.11.2021 is reproduced below:

Date	Particulars	Amount Paid	Source	Remarks
20/03/2012	Payment to seller	Rs. 5,00,000/-	Out of past savings, private sources and self-generated	Paid through Ch. No. 212677, Standard Chartered
01/04/2012	Stamp Duty	Rs. 18,900/-	Out of past savings, private sources and self-generated	Paid in cash
04/04/2012	Stamp Duty	Rs. 31,100/-	Out of past savings, private sources and self-generated	Paid through Ch. No. 065082, Standard Chartered
10/04/2012	Payment to seller	Rs. 21,00,000/-	Out of past savings, private sources and self-generated	Paid through Ch. No. 212678, Standard Chartered
11/04/2012	Payment to seller	Rs. 5,00,000/-	Out of past savings, private sources and self-generated	Paid through Ch. No. 212679, Standard Chartered
16/04/2012	Payment to seller	Rs. 2,10,000/-	Out of cash in hand	Paid in cash
30/08/2012	Stamp Duty	Rs. 80,100/-		Paid through DD.
25/08/2012	Renovation	Rs. 5,35,000/-	Out of advance received for sale of this flat 31/07/2012.	Paid to Mohan Kumar Khanchandani through Ch. No. 212686, 212690, 000003 Standard Chartered

Therefore, it is clear that assessee had excess cash which was out of books and same was deposited in Standard Chartered Bank (52910029713).

4.3. The assessee has failed to submit the justification for the cash deposit and source of cash during the year. From the cash book submitted by the assessee it cannot be concluded as how assessee has incurred here personal and other household expenses.

4.4 Further, the contention of tax planning of assessee is not tenable and also not acceptable. It is pertinent to quote the decision of Apex Court in the case of *Mc Dowell & Co. Ltd Vs CTO* where Hon'ble Supreme Court held that tax planning may be legitimate provided it is within the framework of law. Colorable devices cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid the payment of tax by resorting to dubious methods. It is the obligation of every citizen to pay to taxes honestly without resorting to subterfuges.

4.5 The following conclusions can be derived from the above-mentioned paragraphs:

-The assessee has furnished inaccurate particulars in the submission as cash in hand shown in the submission is different from the cash in hand shown in Income tax return.

-The assessee is sole proprietor of the Moonage films, so how can there be two separate cash in hand and two cash books for the single PAN.

- The assessee has failed to reconcile the opening cash in hand as submitted in the reply vis-a-vis from Income Tax Return of the previous year.

-The assessee has no running business to generate cash amount.

4.6 *In view of the above, it is clearly evident that the cash deposit Rs.2,05,000/- is unaccounted cash available with the assessee in the F. Y under consideration and not declared in her ITR. However, show cause was issued to the assessee with a direction to explain the cash deposit along with documentary evidence.*

4.7 *Further, the assessee complied to the show cause notice with documentary evidence and on perusal of them, the same is not tenable as per issues raised in the show cause and the source of cash deposit is remains unverified. Therefore, as per discussion in para 4.1to 4.7, it is clearly evident that the Cash deposit of amount to Rs. 2,05,000/-in Standard Chartered Bank (52910029713) is nothing but unaccounted cash of the assessee which was not disclosed as income by the assessee and the Cash deposit of amount to Rs. 2,05,000/- is added in the income of the assessee as unaccounted cash credits u/s 68 of the Income Tax Act, 1961for the AY under consideration.”*

5.5 Further from the relevant para of First Appellate order, we note that Ld. CIT(A) upheld the said addition with the following factual findings and conclusions :-

“4.4.6 During the assessment proceedings, the Assessing Officer noted that the appellant has deposited cash of amount of Rs.2,96,000/- in Standard Chartered Bank. The appellant explained that the cash deposit was from the opening cash in hand as on 01.04.2012 belonging to M/s Moonage account (Rs. 40,322/-) and to Ruby Singh's personal account (Rs. 5,30,202/-). The Assessing Officer found that the appellant had declared cash in hand at Nil as on 31.03.2012 as per her return of income of AY 2012-13. The closing cash in hand for AY 2012-13 would be the opening cash in hand for FY 2012-13. The assessee failed to submit the justification for the cash deposit and the source of cash during the year. From the cash book submitted by the appellant it cannot be concluded as to how the appellant has incurred a personal and other house hold expenses. The Assessing Officer therefore, considered the bank withdrawals and deposits upto July 2012 and made an addition of cash deposit of amount Rs. 2,05,000/- as unaccounted cash credit u/s 68 of Income Tax Act.

4.4.7 *The appellant is a sole proprietor of M/s. Moonage Films and is filing her returns accordingly. During the course of the year there have been cash deposits amounting to Rs. 35,000/- in April 2012, Rs. 30,000/- in May 2012 and Rs. 1,40,000/- in July 2012 the total cash deposits in the Standard Chartered Bank upto July 2012 is therefore Rs. 2,05,000/-. The Assessing Officer made the addition of an amount of Rs. 2,05,000/- as unaccounted cash of the appellant which was not disclosed as income. The cash deposits amounting to Rs. 2,05,00/- were added to the income of the appellant an unaccounted cash credits us 68 of the Income Tax Act. The appellant tried to justify the source of this cash as the personal cash in hand of the appellant and submitted a figure of opening cash in hand of Ms. Ruby Singh's personal cash in hand. The justification submitted by the appellant does not seems to be acceptable in view of the following arguments:*

1. The opening cash in hand figure of personal account of Ms. Ruby Singh is not supported by any documentary evidence.

2. As per the return of income filed by the appellant in response to notice u/s 148 of Income Tax Act the appellant disclosed both the current account in Oriental Bank of Commerce and saving account in Standard Chartered bank while disclosing their cash at bank. Since all the accounts of the appellant were disclosed which includes both business and personal accounts it can be safely presumed that the cash in hand disclosed in the return of income also includes both the business and the personal cash. Further year under consideration the opening cash in hand as per the return of income is grossly insufficient for such cash deposits in the bank.

3. As per the statement of Ms. Ruby Singh recorded w/s 131 of Income Tax Act by the DDIT, Investigation, Delhi she had clearly mentioned that all payments are received through banking channels and no payment received in cash in last six to seven years. Therefore, there is no possibility of any availability of cash with the appellant which could have been deposited in the bank account during the year.

4. Since there is no income in cash in last several years, there is no justification of having any cash in hand other than what has been withdrawn over the years from the bank.

Further, the appellant did not mention any specific reason for depositing cash in her bank account during the year.

5. On perusal of the details of expenditure it is noted that an amount of Rs. 18,900/- was paid in cash for a stamp duty on 01.04.2012 and a payment to seller in cash was made of an amount of Rs. 2,10,000/- on 16.04.2012. Therefore, if at all the contention of the appellant of opening personal cash is considered even then most of such cash have been exhausted in making these payments.

6. There is no justification of making monthly deposits every month in bank even out of the personal cash in hand, if any.

7. From the accounts submitted by the appellant it cannot be concluded as to how the appellant has incurred a personal and other house hold expenses during the year.

4.4.8 In view of the above, I am of the considered opinion that the source of cash deposited in the bank account upto the month of July 2012 amounting to Rs. 2,05,000/- remains unexplained and there is no reason to interfere with the order of the Assessing Officer. Accordingly, the addition of cash deposit of amount of Rs. 2,05,000/- made to the total income of the appellant at unexplained cash credit u/s 68 of Income Tax Act is upheld. Accordingly, Ground Nos. 9 to 12 of appeal are dismissed.

5.6 On careful consideration of rival submissions on the issue basis taken by the AO for making the addition u/s. 68 of the Act and conclusions recorded by the Ld. CIT(A) for upholding the addition. At the very outset, we note that Ld. CIT(A) evaluated the findings of the AO and also considered the contentions of the assessee and thereafter upholding the addition by observing that the reopening cash in hand figure of personal account of assessee is not supported by any documentary evidence. The Ld. CIT(A) also observed that in the statement recorded u/s. 131 of the Act by the DDIT (Investigation), Delhi, the assessee had clearly mentioned that all the payments were received through banking channels and no payment is

received in cash in the last 6 to 7 years, therefore, there was no possibility of any availability of the cash of the appellant which could not have been deposited in the bank accounts during the year under consideration. On logical analysis of the findings arrived by the AO and observations recorded by the Ld. CIT(A), as reproduced hereinabove, first of all, we note that the AO in the reasons recorded for reopening of assessment for AY 2013-14 noted that cash in hand as per return was Rs. 2,56,942/- and the assessee in her reply noted by the AO at page 6 shown same amount of cash in hand as on 31.3.2012 thus the same cannot be considered as opening cash in hand as on 1.4.2012. The AO has recorded a clear findings that as per return of income for immediately preceding AY 2012-13 cash in hand at the end of financial period was NIL. Therefore, the AO as well as Ld. CIT(A) were correct and justified in dismissing the Cash Flow Statement submitted by the assessee showing personal cash in hand of Rs. 40,322/- and cash in hand of her firm M/s Moonage Films amounting to Rs. 5,30,702/-. From the relevant part of the assessment order from para 4.2 to 4.7 (supra), we further note that the assessee on 21.12.2021 was show caused by the AO to explain different opening cash in hand for the same PAN. After considering the reply of the assessee the AO rightly observed that the sole proprietorship concern and the person has control over the concern should be treated as one entity and financials statement reconciled accordingly as the assessee failed to substantiate that by way of tenable

explanation that how the cash in hand was personal account and on proprietorship concern a/c should be different and then the accounting adopted by the assessee was not in accordance with AS-1 which requires true and fair disclosure. The AO rightly took opening cash in hand on 1.4.2012 as NIL which is in confirmatory with the return of income for AY 2012-13. Therefore, the cash in hand shown by the assessee, in the statement of affairs submitted before the AO, of Rs. 40,322/- of personal account and Rs. 5,30,202/- was rightly disbelieved by the AO. The AO has made addition of Rs. 2,05,000/- picking up the cash deposit to the bank account of assessee in July, 2012 by observing that the assessee paid Rs. 18,900/- in cash on 1.3.2012 and Rs. 2,10,000/- on 16.4.2012 as part payment for purchase of immovable property and upto July, 2012 the assessee had availability of Rs. 50,000/- only out of withdrawal from the bank account whereas the total cash paid by assessee for purchase of property was Rs. 2,28,900 (Rs. 2,10,000 + Rs. 18,900) and then how assessee could have deposited Rs. 2,05,000/- upto to July, 2012 particularly when the assessee has made more expenses in cash than available with her. On logical evaluation of Cash Flow Statement of assessee, we clearly note that since the assessee has failed to substantiate the opening cash balance / cash in hand pertaining to proprietorship concern of Rs. 5,30,202/- consequently closing cash in hand of Rs. 3,19,202/- had been recalculated which comes to negative cash in hand of Rs. 2,10,202 (Rs. 5,30,202 – Rs. 3,19,202) which is higher than the

addition made by the AO of Rs. 2,05,000/- on account of unexplained cash deposit to the bank account No. XXXXX29713 of assessee with Standard Chartered Bank.

5.7 Ld. CIT(A) thus rightly observed that since there was no income or receipt in cash during the last several years, there was no justification of having any cash in hands otherwise, what has been withdrawal over the years from the bank accounts of the assessee. We also observe that the AO as well as Ld. CIT(A) provided due opportunity to the assessee to explain the source of cash deposit but the assessee did not submit any specific reason explaining the source of cash deposit during the year. In view of foregoing discussions, we decline to accept the explanation of the assessee as the assessee has failed to explain the source of cash deposit to her bank account upto the month of July, 2012 and hence, the impugned amount of Rs. 2,05,000/- remained unexplained and the AO was right in making the addition in the hands of the assessee u/s. 68 of the Act and hence, we are unable to see any perversity or any other valid reason to interfere with the findings of AO and conclusion recorded by the Ld. CIT(A), hence, we uphold the same. Accordingly, the ground no. 4 and 4.1 of assessee for AY 2013-14 are also dismissed.

The legal Ground no. 2 to 2.2 of assessee in other 06 appeals from assessment years 2014-15 to 2019-20.

6. The Ld. Representatives of both the sides submitted and agreed to the factual position that, except quantum the reasons recorded by the AO for initiation of reassessment proceedings u/s. 147 of the Act and for issuance of notice u/s. 148 of the Act are identical and similar, therefore, we took up the Appeal for assessment year 2013-14 as lead case to adjudicate the said legal grounds of assessee. Since in the earlier part of this order, we have dismissed the legal grounds no. 2 to 2.2 of the assessee challenging the validity of assumption of jurisdiction by the AO for initiation of reassessment proceedings u/s. 147 of the Act and issuance of said notice u/s. 148, therefore, our conclusion drawn for assessment year 2013-14 (supra) would apply *mutatis mutandis* to the identical and similar grounds no. 2 to 2.2 of assessee in other 06 appeals. Consequently, grounds no. 2 to 2.2 of the assessee in other 06 appeals for AY 2014-15 to 2019-20 are also dismissed.

Ground no. 3 and 3.1 of assessee for AY 2014-15 to 2017-18

7. Ground no. 3 and 3.1 of assessee in other four appeals pertaining to AY 2014-15 to 2017-18. In the beginning of hearing, the Ld. Representatives of both the sides, agreed and thus submitted that except quantum of additions, the facts and circumstances, in all the said four appeals, on the issue of cash deposit to the

bank account of the assessee. Therefore, our above conclusion drawn for assessment year 2013-14 for Ground no. 4 and 4.1 would apply *mutatis mutandis* to the ground no. 3 and 3.1 of the assessee in other 06 appeals. Accordingly, addition made by the AO u/s. 68 of the Act on account of cash deposit to the bank account of the assessee in the appeals for AYrs 2014-15 to 2017-18 are also confirmed. Accordingly, the ground no. 3 to 3.1 of the assessee in said four appeals from assessment years 2014-15 to 2017-18 are also dismissed.

Ground no. 3, 3.1, 4, 5 & 6 of assessee in assessment year 2018-19 and 2019-20.

8. Since except quantum of additions, facts and circumstances pertaining to said grounds in both the appeals, are identical and similar, therefore, as agreed by the Ld. Representatives of both the sides, we take up ITA No. 2880/Del/2022 for AY 2018-19 as lead case for adjudicating the identical grounds in both the years. The grounds raised by the assessee in the said appeal are as follows:-

“3. That the Ld. CIT(A) has further erred both in law and on facts in upholding an addition of Rs. 1,39,200/- representing the alleged unexplained cash credit u/s. 68 of the Act read with section 115BBE of the Act.

3.1 That while confirming the above addition, the Ld. CIT(A) has failed to appreciate the factual substratum of the case, statutory provisions of law and as such, addition so confirmed is highly misconceived, totally arbitrary, wholly unjustified and therefore, unsustainable.

4. *That the Ld. CIT(A) has also erred both in law and on facts in upholding an addition of Rs. 10,00,800/- on account of sums received and declared as salary represents unexplained cash credits under section 68 of the Act read with section 115BBE of the Act.*

5. *That the Ld. CIT(A) has erred both in law and on facts in upholding an addition of Rs. 12,40,000/- representing the alleged unexplained cash credit under section 68 of the Act read with section 115BE of the Act.*

6. *That without prejudice to the above and in the alternative, even otherwise, the Ld. CIT(A) has erred both in law and on facts in holding that amount deposited in the bank by the appellant is taxable as income under section 69A of the Act and thereafter computed the demand in accordance with rates specified in section 115BBE of the Act as amended by Taxation Law (Second Amendment) Act, 2016.”*

8.1 **Ground no. 3, 3.1 & 4 of the assessee for AY 2018-19.** Apropos ground nos. 3, 3.1 & 4 Ld. Counsel for the assessee submitted that Ld. CIT(A) has erred in both facts and in law in upholding the addition of Rs. 10,00,000/- on account of sums received and declared as salary and Rs. 1,39,000/- alleging the same as unexplained cash deposit to the bank of the assessee treating the same as unexplained credit u/s. 68 of the Act read with section 115BBE of the Act. The Ld. Counsel for the assessee submitted that salary received from M/s Arihant Associates during the year was declared in the return of income as salary income. He further stated that assessee took employment, with M/s Arihant Associates and its Partner Shri Chetan Shukla, as Public Relation Officer (PRO) and the job profile was to introduce the professionals of New Delhi, in the field of sale and

purchase of old commercial vehicles, to M/s Arihant Associates and its partners. The Ld. Counsel for the assessee also submitted that assessee has been well connected in the business of social circles, of New Delhi, therefore, she was taking salary of Rs. 12 lacs. She was paid Rs. 10,00,800/- in FY 2017-18; Rs. 10,80,000/- in Financial year 2018-19 pertaining to assessment year 2018-19 and 2019-20. The Ld. Counsel for the assessee also submitted that in the statements recorded by Investigation Wing, Shri Chetan Shukla partner of M/s Arihant Associates clearly stated that employee-employer relationship was existing between the assessee and M/s Arihant Associates and the assessee introduced certain professionals of New Delhi in the field of sale and purchase of old commercial vehicles to the said firm, therefore, assessee provided services to M/s Arihant Associates and Shri Chetan Shukla against salary received by her. Ld. Counsel for the assessee submitted that the expectation of generating business by employing assessee did not materialise, therefore, employment of assessee was terminated after two years, but it is also true that all the activities of the business does not always result into profit. Ld. Counsel for the assessee submitted that the assessee received salary from M/s Arihant Associates after deduction of TDS which was declared in her return of income for the relevant assessment years, therefore, the same cannot be treated as unexplained credit in the hands of the assessee merely on the basis of the surmises

and conjectures and baseless allegations of the AO made in the assessment order, therefore, the addition may kindly be deleted.

8.2 Replying to the above, Sr. DR submitted that the AO made detailed analysis and verification and thereafter found that the assessee has received the impugned amount from M/s Arihant Associates and on verification of documents, it was also found that there exist no employee-employer relationship between the assessee and the said firm. The AO also observed that the line of business of assessee was totally unrelated and different with the business line of M/s Arihant Associates, as the assessee was in the business of “film production” whereas the said firm was dealing in “second hand old commercial vehicles”. The AO also concluded that there was no employee-employer agreement between the assessee and the firm and the payments made to assessee were not periodic, but random and was made in lumpsum. Thus, the assessee failed provide the details of business procured by her for M/s Arihant Associates in lieu of which impugned salary has been shown as paid. The AO categorically noted that the assessee has no expertise in the core business of M/s Arihant Associates i.e. sale and purchase of old commercial vehicles, therefore, the genuineness of transaction received on salary in line of service rendered by the said firm to the assessee could not established. The Ld. Sr. DR. Vehemently contended that with these observations the AO rightly observed that the transaction of receipt of Rs.10,00,800/- by the assessee from M/s

Arihant Associates could not be treated as genuine salary and thus it was bogus entry in the disguise of salary. He further submitted that the assessee had only declared Rs. 10,00,800/- as salary income in her income tax return for AY 2018-19, whereas there was credit of Rs. 11,40,000/- to her bank account. Therefore, the AO was quite correct and justified in making further addition of remaining amount of Rs. 1,39,200/- in the hands of the assessee as unexplained credit u/s. 68 r.w.s. 115BBE of the Act. He further submitted that from the assessee had only The Id. Sr. DR supported the final conclusion of the AO and lastly submitted that the AO also rightly noted that since the assessee herself has offered amount of Rs. 10,00,800/- for taxation as salary income at the normal tax rate, but being not satisfied with the explanation of assessee, the AO concluded that the said unexplained amount was to be taxed at higher rate u/s. 115BBE of the Act.

8.3 Placing rejoinder to the above, Ld. Counsel for the assessee submitted that though the assessee was not having any expertise in line of business undertaken by the said firm M/s Arihant Associates, but assessee was not expecting to procure purchase and sale of old commercial vehicles, but the duty given by the said firm to the assessee was to introduce M/s Arihant Associates and its partner Shri Chetan Shukla to the business of social circle as entrepreneur in the similar line of business in New Delhi only, so that they may be able to procure business for purchase of sale of old commercial vehicles in New Delhi. Therefore, when the

assessee had rendered services in line of that, she received salary from the said firm, which cannot be alleged to be bogus salary merely because the assessee was not having any expertise in the line of business of the said firm and in the absence of any written employee-employer agreement between the assessee and M/s Arihant Associates.

8.4 On careful consideration of rival submissions and on perusal of the relevant Paper Book of the assessee, first of all, we note that undisputedly there was no employee-employer agreement between the assessee and M/s Arihant Associates and the assessee was not having any expertise in the line of business of the said firm i.e. purchase and sale of old commercial vehicles. From the relevant para of assessment order, we note that the AO recorded the following observations and finding :-

“4.1 To ascertain the genuineness of transaction and identity and creditworthiness of the lender, financials of M/s Arihant Associates (PAN: ABFFA2155C) from the ITBA portal were perused and found that the its registered address is A-54, Sarvodaya Nagar, Indira Nagar, Lucknow, UP Financial of the M/s Arihant Associates are reproduced below:-

<i>Particulars</i>	<i>AY 2017-18</i>	<i>AY 2018-19</i>	<i>AY 2019-20</i>
<i>Total income</i>	<i>5072</i>	<i>0</i>	<i>36419</i>
<i>Revenue from operations</i>	<i>0</i>	<i>0</i>	<i>988503</i>
<i>Compensation to employees</i>	<i>56500</i>	<i>4073</i>	<i>419860</i>

<i>(inclusive of salary expenses)</i>			
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- A) *Further, composite analyses of financials of Ms. Ruby Singh and M/s Arihant Associates revealed that salary income as claimed by Ms. Ruby Singh is not getting reflected in the financials of M/s Arihant Associates (as expense). Moreover, M/s Arihant Associates is not in a position to pay such huge salary. Further the bank statement and statement of Sh. Chetan Shukla dated 16.9.2020 partner in M/s Arihant Associates, was analyzed and found that their exist a mismatch and conflict in the stand taken by M/s Arihant Associates and Ms. Ruby Singh which is follows:-*

<i>S.No.</i>	<i>Salary claimed by Ms. Ruby Singh (Rs.)</i>	<i>Salary claimed by M/s Arihant Associates (Rs.)</i>	<i>Difference (Rs.)</i>
<i>AY 2017-18</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Ay 2018-19</i>	<i>10,00,800</i>	<i>11,40,000</i>	<i>1,39,200</i>
<i>Ay 2019-20</i>	<i>10,09,800</i>	<i>12,20,000</i>	<i>2,19,200</i>

4.3 *It can be clearly seen from the above tables, that M/s Arihant Associates has claimed Rs. 4,19,860/- as compensation to employees (In its financials) during the year under consideration whereas claiming to have paid Rs. 12,20,000/- as salary to Ms. Ruby Singh. Moreover, there exist no employer-employee relationship between both the parties. Ms. Ruby Singh's line of business is totally unrelated with line of business of M/s Arihant Associates. From the above discussion, it is concluded that all these were mere bogus entries on the following account.*

- i) M/s Arihant Associates transferred Rs. 32,60,000/- to Ms. Ruby Singh whereas Ms. Ruby Singh claims that Rs. 20,80,000 has been transferred to her as salary.*
- ii) M/s Arihant Associates is based at Lucknow and Ms. Ruby Singh is based at Delhi.*

- iii) *M/s Arihant Associates and Ms. Ruby Singh are not in similar line of business. Ms. Ruby Singh is in business of film productions whereas M/s Arihant Associates deals in second hand mother vehicles.*
- iv) *There is no employer-employee agreement between M/s Arihant Associates and Ms. Ruby Singh.*
- v) *Payments made to Ms. Ruby Singh were not periodic, but random and were made in lump sum.*
- vi) *Both M/s Arihant Associates and Ms. Ruby Singh failed to provide the details of business procured by Ms. Ruby Singh for M/s Arihant Associates, in lieu of which salary has been shown as paid to her.*
- vii) *Ms. Ruby Singh has no expertise in the core-business of M/s Arihant Associates i.e. sale of second hand commercial vehicle.*

4.4 *In view of the above facts, it is evident that genuineness and nature of transaction could not be established and therefore, the credits of Rs. 11,40,000/- in the bank account of Ms. Ruby Singh are unexplained credit out of which only Rs. 10,00,800/- has been offered for taxation under the disguise of salary income. Consequently, the transaction of Rs. 10,00,800/- to Ruby Singh from M/s Arihant Associates could not be treated as genuine salary and it is bogus entry in disguise of salary. Assessee routed her unaccounted fund/ cash in her book of account by managing bogus entries.*

However, assessee offered Rs. 10,00,800/- for taxation as salary income at the normal tax rate whereas the same is taxable at special rate u/s. 115BBE. By this assessment order, the assessee is being taxed at the special rate u/s. 115BBE on the amount Rs. 10,00,800/- for the AY under consideration. “

8.5 Further from the operative paras of the Ld. CIT(A)'s order, we also observed that Ld. CIT(A) has upheld the said conclusion of the AO with the following observations and findings:-

“4.4.8 The nature of alleged employment and amount received in disguise of salary has been discussed while deciding the additional ground. Accordingly, the Assessing Officer has taxed the remaining amount of Rs. 1,39,200/- (Rs. 11,40,000 - Rs. 10,00,800) as unaccounted income of the appellant and added to the income of the appellant as unexplained cash credit u/s 68 r.w.s 115BBE of Income Tax Act. As per records Ms Arihant Associates had made a payment of Rs. 11,40,000/- to the appellant during the year. Out of this, an amount of Rs. 10,00,800/- has already been considered as unexplained amount paid in disguise of salary and has been taxed at special rate W/s 115BBE of Income Tax Act. The remaining amount of Rs. 1,39,200/- has been received by the appellant from the Ms Arihant Associates during the year cannot be considered as amount received for any genuine employment activity. The appellant has considered this amount as out of pocket expenses which cannot be considered as correct in view of the lack of existence of employer employee relationship between M/s Arihant Associates and the appellant. Accordingly, I am of the considered opinion that the amount of Rs. 1,39,200/- cannot be out of pocket expenses against the employment and are in the nature of unexplained cash credits. The Assessing Officer has correctly added the same as unexplained cash credit u/s 68 r.w.s. 115BBE and I do not find any justification to interfere with the order of the Assessing Officer. The addition of Rs. 1,39,200/- as unexplained cash credit u/s 68 r.w.s 115BBE of the Income Tax Act made by the Assessing Officer is therefore correct and the same is upheld. Accordingly, Ground Nos. 6 to 6.5 of appeal are dismissed.”

8.6 On careful consideration of the above submissions, basis taken by the AO for making the addition and observations of the Ld. CIT(A) in confirming the addition, we note that the AO has rightly made the addition in the hands of the assessee doubting the genuineness of the transaction of salary received from M/s Arihant Associates as the said firm was in the line of purchase and sale of old

commercial vehicles whereas the assessee has no expertise in the same field and the assessee was in the business activity of Film production. This fact has also not been disputed by the Ld. Counsel for the assessee that there was no employee-employer agreement between the assessee and M/s Arihant Associates. Copies of bank account reveals that impugned salary payments were made to the assessee by the said firm were not periodic but random and in lumpsum. The assessee failed to provide the details of business or connection procured by her for M/s Arihant Associates in lieu of which salary was received from the said firm. The Ld. Counsel for the assessee could not controvert the above factual finding except submitting that she procured relations for the said firm in the business & social circles of New Delhi and salary has been routed and received through banking channels, after deduction of TDS, therefore, the same cannot be doubted. The said contention of the Ld. Counsel for the assessee is not tenable and sustainable in view of the factual finding noted by the authorities below, which has also been found correct on factual findings on the basis of aforementioned logical analysis. On evaluation of the conclusion drawn by the AO and upheld by the Ld. CIT(A), we also observe that since the assessee had already declared the impugned amount of Rs. 10,00,800/- as salary income and offered the same for taxation at the rate of normal tax rate, in her return of income, hence, the AO has not made any further addition. But we find in the instant case, the assessee had not proved the nature of

credit to be salary by proving employer-employee relationship. Hence, addition made by the AO u/s. 68 is justified. Once Section 68 addition is sustained, logical conclusion would be to invoke Section 115BBE of the Act. The AO noted that there was credit of Rs. 11,40,000/- to the bank account of assessee and she had already drawn and shown amount of Rs. 10,00,800/- in her return of income, thus, the AO rightly made the addition of remaining amount of Rs. 1,39,200/- in the hands of the assessee. From para 4.3.4 of first appellate order, we further note that the Id. CIT(A) upheld the said finding of the AO with detailed and sustainable conclusion. Thus, we are unable to see any valid reason to interfere with the findings arrived by the authorities below, hence, we uphold the same. Accordingly, the grounds no. 3, 3.1 and 4 of the assessee are dismissed.

Ground no. 3, 3.1 and 4 of assessee for AY 2019-20

8.7 Since except amount in dispute, the facts and circumstances of assessment year 2019-20 are identical and similar to the facts and circumstances of AY 2018-19 on the issue of alleged unexplained salary received by the assessee and unexplained cash deposits to her bank account. Therefore, our conclusion recorded for AY 2018-19 in the earlier part of this order (supra), would apply *mutatis mutandis* to the ground no. 3. 3.1 and 4 of assessee for assessment year 2019-20. Consequently, we uphold the conclusion of the AO for AY 2019-20 wherein he made addition of Rs. 1,40,000/- to the income of the assessee u/s. 68 of

the Act and ordered to change higher rate u/s. 115BBE of the Act on the total amount of Rs. 12,20,000/-. Accordingly, the ground no. 3, 3.1 and 4 of the assessee for AY 2019-20 are also dismissed by upholding conclusion drawn by the AO and upheld by the Ld. CIT(A) in taxing the salary income at higher tax rate u/s. 115BBE of the Act.

Ground no. 5 & 6 of assessee for AY 2018-19

9. Apropos Ground no. 5 & 6 for AY 2018-19. Ld. Counsel for the assessee submitted that the authorities below have erred in both on facts and in law in making and upholding the addition of Rs. 12,40,000/- representing the alleged unexplained credit u/s. 68 of the Act read with section 115BBE of the Act. Ld. Counsel for the assessee submitted that without prejudice to the above contention, alternatively, submitted that, even otherwise, the ld. CIT(A) has erred both fact and law in holding that the amount deposited in the bank account by the appellant is taxable u/s. 69A of the Act and thereafter completed the assessment in accordance with law on the higher rate of tax specified u/s. 115BBE of the Act. Ld. Counsel for the assessee, drawing our attention towards the relevant part of his submissions placed before the Ld. CIT(A), submitted that the AO made the addition of Rs. 12,40,000/- in the hands of the assessee by observing that the bank statement of assessee reveals that there was a cash deposit of Rs. 3,40,000/- to the bank account with Standard Chartered Babnk and Rs. 9 lacs with the Oriental Bank of

Commerce of assessee totalling to Rs. 12,40,000/-. Ld. Counsel also submitted that in response to notice of AO, the justification submitted by the assessee vide reply dated 26.11.2021 wherein she stated that the cash deposit was came from the opening cash in hand of Rs. 6,22,502/- on 1.4.2017 belong to proprietorship concern M/s Moonage Films account and assessee's personal cash in hand of Rs. 2,07,698/- accumulated from the income received in cash. Ld. Counsel for the assessee submitted that reply and explanation of the assessee was dismissed by the AO without any justification only on the basis of his whims and fancies which is not sustainable. Ld. Counsel for the assessee submitted that AO has taken irrelevant and incorrect factual position for dismissing the contention of the assessee and therefore baseless addition made by the AO may kindly be deleted. Ld. Counsel for the assessee also contended that when the assessee is owing a concern / Moonage Films which has a different financial transactions then the factum of two separate cash in hand and cash books cannot be disbelieved.

9.1 Ld. Counsel for the assessee further submitted that the assessee has successfully demonstrated the source of cash deposit of Rs. 12.40 lacs to her bank account which has been dismissed by the authorities below without substantiating the mandatory requirement of section 68 of the Act, therefore, the addition may kindly be directed to be deleted.

9.2 Replying to the above, Sr. DR drawing our attention towards the orders of the authorities below particularly para no. 3.8 of the assessment order submitted that the assessee has furnished inaccurate particulars in the income tax returns as the cash in hand shown in the statement are different from the cash in hand shown in the income tax returns. Ld. Sr. DR submitted that assessee is a sole proprietor of M/s Moonage Films, therefore, how can be there two cash in hand for single PAN No. The Ld. Sr. DR vehemently pointed out that since the assessee has failed to reconcile the opening cash in hand vis-à-vis their income tax returns of assessee and assessee has not submitted any agreement and confirmation from the tenant from whom cash rent was received, therefore, explanation of assessee was rightly dismissed by the AO before making the addition. The Ld. Sr. DR finally submitted that AO and Ld. CIT(A) was quite correct and justified in holding that cash deposit of Rs. 12.40 lacs was unaccounted cash available with the assessee earned during the relevant financial period which was not declared in her income tax return, therefore, the same was rightly treated as unaccounted cash of credit u/s. 68 of the Act read with section 115BE of the Act.

9.3 Placing rejoinder to the above, Ld. Counsel submitted that when the assessee has explained the source of cash deposit which was from cash in hand, cash rental income and other sources, then the authorities below were not justified in making and confirming the addition in the hands of the assessee u/s. 68 of the

Act. Alternatively, Ld. Counsel for the assessee submitted that Ld. CIT(A) has erred in holding that the amount deposited in the bank account of the assessee is taxable u/s. 69A of the Act and thereafter computed the demand in accordance with rates specified under section 115BBE of the Act as amended by Taxation Laws (Second Amendment), Act, 2016.

9.4 On careful consideration of the above noted rival submissions, basis taken by the AO for making addition u/s. 68 r.w.s. 115BBE of the Act and conclusions drawn by the Ld. CIT(A) in para 4.2.11 and 4.2.12. First of all, we note that the said AO made the addition by mainly observing the following factual matrix:

“On perusal of ROI for AY 2017-18 and submissions dated 26.11.2021 furnished by the assessee, it is found that assessee has declared cash in hand Rs. 16,068/- on 31.3.2017 as asset in the balance sheet of her sole proprietorship firm, Moonage Films and the same amount has carried forward and declared in the financial of AY 2018-19 as opening cash in hand on 1.4.2017. Whereas as per reply dated 26.11.2021, assessee has declared cash in hand Rs. 622,502/- (personal account of Ruby Singh) on 1.4.2017.

i) *Assessee failed to furnish the accounting of cash in hand of Rs. 4,41,002/- (personal account of Ruby Singh) on 1.4.2017 as well as genuine source of cash in hand for personal account. The following accounting of assessee is not matched with accounting standard AS-1 and failed to true and fair disclosure. As the assessee has declared Rs. 16,098/- as cash in hand on 1.4.2017 in her financials, the same is allowed and other cash in hand is remained unverified and it is not regarded as genuine cash in hand of assessee.*

- ii) *On perusal of bank account statement of assessee, and cash ledger of the assessee it cannot be concluded that the assessee has made payment of expenses from the bank account or in cash mode.*
- iii) *Assessee failed to furnish why cash withdrawals were continuously made from April, 2017 to March 2018 and why the purpose has not been realised. In absence of documentary evidences regarding the purpose of cash withdrawal, it is construed and firmly believed that cash withdrawal has been utilised and the cash deposit was not the part of cash withdrawal. Also, assessee received rent about of Rs. 45000/- in the year under consideration for the rent agreement carried out in FY 2016-17 but mode of received was ambiguous. Further, assessee failed to furnish the rent agreement carried out in FY 2017-18 but she claimed the rent received in cash in the year under consideration. Curiously, the attempt of assessee to make the cash deposit genuine in disguise of rent is not acceptable in absence of documentary evidence and the cash deposit is considered as unexplained and out of books.*
- iv) *The assessee has failed to explain the source of the cash deposit in the bank account. The personal cash ledger of the assessee cannot be relied due to discrepancies in the amounts. The same is also not disclosed in the return of income of the assessee. Further, financials of Ms. Ruby Singh were pursued and it was found that her operating revenue do not support such cash deposits/credits in her bank accounts.”*

9.5 After noticing the above factual matrix, discernible from the records as well as documentary evidences and explanation of the assessee, the AO finally observed that the assessee has furnished inaccurate particulars in the income tax returns as cash in hand shown in the statement was different from the cash in hand shown in the income tax return. The AO further observed that the assessee is a sole proprietor of M/s Moonage Films, therefore, there cannot be two separate

cash in hand for single PAN No. He also concluded that assessee has failed to reconcile the opening cash in hand vis-a-vis their income tax return of the previous year and has failed to submit on record the rent agreement and confirmation of the tenant from whom cash rent was received. With these observations, the AO made the addition with the final conclusion that it is clearly evident that cash deposits of Rs. 12.40 lacs is unaccounted cash available with the assessee earned during the Financial Year 2017-18 pertaining to AY 2018-19 under consideration which was not declared in her return of income.

9.6 Further from the relevant part of the first appellate order, we note that Ld. CIT(A) after considering the written submissions of the assessee as well as stand taken by the AO for making addition upheld the addition. First of all, we note that this is a case where the regular books of accounts were being maintained by the appellant and all her bank accounts and assets have been included in those books of account and the same have been found manifested in the schedule of fixed assets, balance with bank etc. With these observations, the Ld. CIT(A) rightly dismissed contention of the assessee that cash and other deposits in the saving account in Standard Chartered Bank was not part of the books of accounts and hence, not covered u/s. 68 of the Act is incorrect and devoid of any merits. Ld. CIT(A) considered the monthwise cash flow statement of assessee filed before the AO and thereafter proceeded to adjudicate the grievance of assessee.

9.7 The main basis taken by the assessee before the authorities below to justify the source of cash deposits was personal cash in hand in the beginning of year, withdrawal from the bank accounts during the year and rental cash receipts during the relevant financial year. The explanation and justification submitted by the appellant was examined and verified by the Ld. CIT(A) on the touch stone of observations made by the AO in the assessment order. Ld. CIT(A) after appreciating and evaluating the explanation and stand of assessee recorded a categorical finding that the explanation submitted by the appellant was not found to be acceptable as in the month of June, 2017, the appellant deposited amount of Rs. 8 lacs whereas the prior withdrawal from the bank were only Rs. 6,36,800/-. He also observed that the withdrawals from the current bank account were being made for certain purpose of business and not for only to be re-deposited in the bank. It was further observed by the Ld. CIT(A) that the withdrawal have been made in the current account or saving account almost every month and were allegedly redeposited subsequently in the months of June, 2017 and November, 2017, but he found himself unable to understand as to why the appellant has been making withdrawal from the bank accounts almost every month and depositing the cash in bank accounts after sometime.

9.8 The Ld. CIT(A) after deeply evaluating the facts and circumstances under which the assessee withdrew the amount and deposited, rightly held that the

withdrawal could be made after exhausting or spending the existing cash in hand and therefore the cash withdrew every month cannot be considered to be available for redepositing in the bank. Ld. CIT(A) also evaluated the explanation of the assessee that the withdrawals of Rs. 6 lacs in five instalments during July, August, September and October, 2017 were made for certain utilisation for business purposes and not for accumulating the same for redepositing in the bank in the month of November, 2017. Ld. CIT(A) drawn the conclusion against the assessee by rightly observing that the arguments submitted by the appellant that these amounts were withdrawn from bank for money given to contractors for arranging the people and equipments for shoot and remote places where cash payment are to be made to labour, pony owners and other local contractual artists etc., but due to certain reasons viz. whether political or local condition the shoot had to abandon and the money had to re-deposit in the bank of assessee was also not found to be convincing in the absence of other supporting evidence. Ld. CIT(A) thus rightly concluded that withdrawal from current and saving accounts have been made and the amounts must have been utilised for business and other purposes and therefore, the same were not available for redepositing the same in the bank account and Ld. CIT(A) finally concluded that the source of cash deposit of Rs. 12,40,000/- in the bank remains unexplained and upheld the addition made by the AO u/s. 68 read with section 115BBE of the Act. In view of forgoing evaluation and analysis of

orders of the authorities below, we are unable to see any ambiguity, perversity or any valid reason to interfere with the conclusion drawn by the AO as well the findings recorded by the Ld. CIT(A), hence, we uphold the same. Accordingly, the ground no. 5 of assessee's appeal for assessment year 2018-19 is dismissed.

9.9 It is also pertinent to mention that Ld. Counsel for the assessee in ground No. 6 has raised an alternative ground that Ld. CIT(A) was not correct and justified in upholding the addition on account of deposit in the bank account u/s. 69A of the Act and in directing the AO to tax the same at higher rate of tax u/s. 115BBE of the Act. On consideration of the said alternative ground of assessee from the orders of the authorities below, we are unable to see any such addition neither from the assessment order nor from the first appellate order. Therefore, the said alternative ground of the assessee is baseless being not discernible from the orders of the authorities below. It is also relevant to mention that the provision of section 115BBE of the Act charging the higher rate of tax is applicable from AY 2017-18 onwards, and the appeal in hand is pertaining to assessment year 2018-19, wherein addition u/s. 68 of the Act has been made to the income of the assessee, therefore, the authorities below are eligible to invoke the said provision as per mandate and facts & circumstances of the issue. Therefore, ground no. 6 of assessee being misconceived and based on non-existing facts is also dismissed.

Ground no. 5 & 6 of assessee for AY 2019-20

10. Apropos Ground no. 5 and 6 in assessee's appeal for assessment year 2019-20. Ld. Counsel for the assessee submitted that Ld. CIT(A) has erred in law and on facts in upholding the addition of Rs. 20 lacs on account of alleged unexplained cash credit u/s. 68 of the Act read with section 115BBE of the Act. Ld. Counsel for the assessee submitted that the AO has grossly ignored the reply dated 20.11.2021 filed by the assessee during the assessment proceedings wherein she categorically stated that the cash deposit was made from the opening cash in hand as on 01.04.2018 available with M/s Moonage Films amounting to Rs. 2,07,698/- and personal cash in hand of assessee amounting to Rs. 6,22,502/- as well as cash rental income received during the year of Rs. 3,60,000/- from the property owned by the assessee situated at 4D/14, Old Rajinder Nagar, New Delhi. The Ld. Counsel for the assessee submitted that the AO dismissed the said contentions of the assessee without having any adverse positive material against the assessee merely mentioning and observing that the assessee failed to furnish any rent agreement for the said property. The Ld. Counsel for the assessee submitted that the assessee during the assessment proceedings also submitted that the details of monthwise cash flow statement clearly depicting opening cash balance, cash deposit, cash withdrawal from the bank, but the same was not rightly appreciated by the AO and he made a baseless addition merely on his surmise and

conjectures which is not justified and sustainable as per mandate of section 68 of the Act and therefore, the same may kindly be deleted. Ld. Counsel for the assessee vehemently pointed out that the AO was not correct and justified in dismissing the self speaking explanation and sustainable documentary evidence filed by the assessee explaining the source of impugned cash deposit in the bank account only on his whims and fancies, therefore, the impugned addition may kindly be deleted by allowing the grounds of appeal.

10.1 Replying to the above, Sr. DR supported the assessment order as well as first appellate order and submitted that assessee was allowed due opportunity of hearing during assessment and first appellate proceedings, but the assessee had failed to substantiate the source of cash deposit of Rs. 20 lacs to her bank account. Therefore, the AO was quite correct and justified in making the addition u/s 68 of the Act read with section 115BBE of the Act and Ld. CIT(A) rightly upheld the same after proper evaluation of factual matrix of the issue and observations of the AO.

10.2 Placing rejoinder to the above, Ld. Counsel of the assessee submitted that there was no positive adverse material against the assessee disbelieving the explanation of the assessee i.e. impugned cash deposits in the bank account of the assessee which was accrued to the assessee out of opening cash in hand in the concern M/s Moonage Films as well as personal cash in hand available with the

assessee, cash rental income and withdrawal from the bank, therefore, the authorities below have kept aside the said sustainable and glaring explanation supported by the documentary evidence such as bank statement, cash flow statement etc., therefore, the orders of the authorities below may kindly be set aside and AO may kindly be directed to delete the addition in toto.

10.3 On careful consideration of the above submissions, first of all, from the relevant part of the first appellate order, we note that the action of the AO was triggered when he found that the assessee was running a sole proprietorship concern namely M/s Moonage Films and found that the assessee was maintaining 'four' bank accounts. The AO from the bank statement of assessee and her firm noted that during the financial year 2018-19 pertaining to present assessment year 2019-20, assessee had deposited total cash of Rs. 20 lacs in the said four banks accounts listed in para 3.1 of assessment order. The AO issued show cause notice to the assessee and in response to the same vide reply dated 26.11.2021, the assessee stated that the cash deposits were made for opening cash in hand as on 01.04.2018 belonging to Monnage Films & assessee's personal account and cash withdrawals from the said account as well as cash rental income of Rs. 3,60,000/- received during the financial year 2018-19 from the property situated at 4D/14, Old Rajinder Nagar, new Delhi. The AO, after evaluating the explanation and documentary evidence filed by the assessee, observed following factual finding :

- i) *On perusal of ROI for AY 2018-19 and submissions dated 26.11.2021 furnished by the assessee, it is found that assessee has declared cash in hand Rs. 207,698/- on 31.3.2018 as asset in the balance sheet of her sole proprietorship firm, Moonage Films and the same amount has carried forward and declared in the financial of AY 2019-20 as opening cash in hand on 1.4.2018. Whereas as per reply dated 26.11.2021, assessee has declared cash in hand Rs. 622,502/- (personal a/c of Ruby Singh) on 1.4.2018.*
- ii) *The sole proprietorship firm and the person who has control on the firm is treated as one entity and the financial credential can never be different. Further, assessee failed to furnish the accounting of cash in hand of Rs. 622,502/- (personal a/c of Ruby Singh) on 1.4.2018 as well as genuine source of cash in hand for personal account. The following accounting of assessee is not matched with accounting standard of AS-1. As the assessee has declared Rs. 207,698/- as cash in hand on 1.4.2018 in her financials, the same is allowed and other cash in hand remains unverified and it is not regarded as genuine cash in hand of assessee.*
- iii) *The maximum opening cash in hand available with assessee in FY 2018-19 relevant to assessment year 2019-20 is Rs. 207,698/- as declared in financial.*
- iv) *On perusals of bank account statement of assessee, and cash ledger of the assessee it cannot be concluded that the assessee has made payment of expenses from the bank account or in cash mode.*
- v) *The opening cash in hand with assessee was Rs. 207,698/- so how can assessee be able to deposit Rs. 6,50,000 in the month of September which also does not correlate with the personal cash book of the assessee. Further, assessee failed to furnish why cash withdrawals were continuously made from April to August. In absence of documentary evidences regarding the purpose of cash withdrawals, it is construed and firmly believed that cash withdrawal has been utilized and the case deposit was not the part of cash withdrawal. Also, assessee also failed to furnish the details of month wise rental income received in cash.*
- vi) *Assessee has made cash deposit of Rs. 12,40,000/- from November, 2018 to February, 2019 whereas the cash withdrawal was only Rs. 40,000/- and no source of cash income has been seen of assessee for*

the same period. From the cash book submitted by the assessee, it cannot be concluded as how assessee has incurred her personal and other household expenses and also the same does not endorse the cash withdrawal and deposit pattern.

10.3.1 After evaluation of explanation and documentary evidence of the assessee, the AO drawn conclusions that assessee has furnished inaccurate particulars in her income tax return as cash in hand shown in the statement was found different from the cash in hand shown in the income tax return. The AO also noted that assessee and her proprietorship concern M/s Monnage Films are one and hence, there cannot be a separate cash in hand for assessee and her firm on the single PAN. The AO also alleged that the assessee had failed to reconcile the opening cash in hand vis-a-vis from income tax return from previous year and her submissions. He also alleged that the assessee has not submitted on record the confirmation of the tenant from her cash rent received. The AO also noted that assessee was not running business to generate huge cash of Rs. 20 lacs and made addition in the hands of the assessee u/s. 68 of the Act read with section 115BBE of the Act by observing that the cash deposit to the bank account of the assessee is nothing but unaccounted cash of the assessee which was not declared as income by the assessee and thus the same remain unexplained and unaccounted.

10.3.2 The assessee carried the matter before the Ld. CIT(A). The Ld. CIT(A) allowed opportunity of hearing to the assessee and taken on record the written

synopsis / submissions of the assessee, which has also been reproduced at page 3 to 4 of the first appellate order, upheld the addition with the following observations and findings:-

“4.2.6 During the course of assessment proceedings, the Assessing Officer has found that the appellant has deposited cash amounting to Rs.20,00,000/- in her bank accounts. Thus a total amount of cash of Rs20,00,000/- was deposited in appellant's bank account during the year. The Assessing Officer did not find the explanation submitted by the appellant that the deposits were sourced from the rental income and cash withdrawals from the bank satisfactory and made an addition of Rs.20,00,000/- as unaccounted cash available with the appellant. An addition of Rs. 20,00,000/- was made as unaccounted cash of the appellant which was not declared as income by the appellant and therefore, was treated as unaccounted cash credits as per 68 r.w. 115BBE of the Income Tax Act.

4.2.7 On perusal of the return of income it is noted that the Part A-BS heading mentions "Balance sheet as on 31 day of March 2019 OF THE PROPRIETARY BUSINESS OR PROFESSION (fill items below in case where regular books of accounts are maintained, otherwise fill item 6)".*

Following salient points were noted on perusal of this part:

<i>1. Fixed assets</i>	
<i>a. Gross : Block</i>	<i>12793103</i>
<i>3. Current assets, Loans & Advances</i>	
<i>a. Current assets</i>	
<i>iii. Cash and Bank balances</i>	
<i>A. Cash in hand</i>	<i>68698</i>
<i>B. Balance with banks</i>	<i>10259265</i>

4.2.8 On analysis of the data above, the following has been observed:

(i) This data is to be filled up for proprietary business or profession where the regular books of accounts are maintained. Therefore, the appellant is maintaining regular books of accounts.

(ii) The balance with banks includes the balances of the Oriental Bank of Commerce, HDFC Bank and Standard Chartered Bank and not just the Oriental Bank of Commerce as conveyed by the appellant.

(iii) Therefore, the return of income which have been verified by the appellant clearly indicates that all the Bank accounts, where the cash was deposited are a part of the regular books of account of the appellant.

(iv) The cash deposited in the bank accounts has therefore, found manifestation in the regular books of accounts maintained by the appellant.

(v) Further, in the case of the appeal in earlier years also it is noted that the receipt in Standard Chartered Bank and other bank accounts in several cases also forms the part of proprietorship business of Moonage Films. There are several receipts which have been received in Standard Chartered Bank and other bank accounts which belongs to the proprietorship business of appellant. Therefore, it would be inappropriate to accept that entries in all the bank accounts are not recorded in the books of accounts of the appellant.

4.2.9 This is a case where the regular books of accounts are being maintained by the appellant. On the basis of the observations above it is proved that the appellant is maintained regular books of accounts and all her bank accounts, assets have been included in those books of accounts and the same have found manifestation in fixed assets, balance with bank etc. Therefore, the appellant's contention during the appellate proceedings that the cash and other deposits in the saving accounts in Standard Chartered Bank was not paper book of account and hence not covered u/s 68 of the Income Tax Act is incorrect and devoid of any merit. The return of income duly verified by the appellant and filed in response to notice u/s 148 is the very basis of assessment and that highlights that the appellant is maintaining regular books of accounts and which contains the deposits in all the bank accounts of the appellant. Accordingly, the argument of the appellant that the cash and other deposits in saving account in Standard Chartered Bank and other bank accounts was not a part of books of account and hence not covered us 68 of Income Tax Act is devoid of merit and therefore rejected.

4.2.10 The month-wise cash flow statement depicting cash deposited and withdrawal from the bank as submitted by the appellant during the course of appellate proceedings is as under:

S. No.	Month	Particulars & Bank Name	Cash Withdrawal	Cash Deposit
	2018-19			
		Rental income Rs. 3,60,000/-received in cash @ Rs. 30,000/- per month		
	April	Oriental Bank of Commerce C/a	Rs. 1,00,000/-	
	May	Standard Chartered	Rs. 2,08,000/-	
		Oriental Bank of Commerce C/a	Rs. 1,50,000/-	
	July	Oriental Bank of Commerce C/a	Rs. 3,50,000/-	
	August	Standard Chartered	Rs. 1,10,000/-	
	September	Standard Chartered		Rs. 1,50,000/-
		Oriental Bank of Commerce C/a		Rs. 5,00,000/-
	October	Standard Chartered	Rs. 18,000/-	
	November	Oriental Bank of Commerce S/a		Rs. 10,000/-
	December	Standard Chartered		Rs. 4,00,000/-
		Oriental Bank of Commerce S/a	Rs. 5,000/-	Rs. 30,000/-
		Oriental Bank of Commerce C/a		Rs. 4,00,000/-
	January	Oriental Bank of Commerce S/a	Rs. 20,000/-	
		Oriental Bank of Commerce C/a		Rs. 1,000/-
	February	HDFC Bank		Rs. 2,00,000/-
		Oriental Bank of Commerce C/a		Rs. 2,00,000/-
		Oriental Bank of Commerce S/a	Rs. 1,000/-	
		Oriental Bank of Commerce S/a	Rs. 9,63,000/-	Rs. 18,91,000/-
		Total		

4.2.11 The Assessing Officer made the addition of an amount of Rs. 20,00,000/- as unaccounted cash of the appellant which was not disclosed as income. The cash deposits amounting to Rs. 20,00,000/- were added to the income of the appellant as unaccounted cash credits u/s 68 of the Income Tax Act. The appellant tried to justify the source of this cash as the personal cash in hand of the appellant at the beginning of the year and the rental receipts in cash during the year and the cash withdrawals from the bank. The justification submitted by the appellant does not appear to be acceptable in view of the following arguments:

1. The opening cash in hand figure of personal account of Ms. Ruby Singh is not supported by any documentary evidence. Further, most of the personal cash, if there was any have already been exhausted in the property and related transactions in the AY 2013-14 and subsequently in household expenses. There is no documentary evidence that any personal cash was available with the appellant for deposition in bank account during the year.

2. As per the return of income filed by the appellant in response to notice u/s 148 of Income Tax Act the appellant disclosed both the current account in Oriental Bank of Commerce and saving account in Standard Chartered bank, while disclosing their cash at bank. Since all the accounts of the appellant were disclosed which includes both business and personal accounts it can be safely presumed that the cash in hand disclosed in the return of income also includes both the business and the personal cash. Further, for the year under consideration the opening cash in hand as per the return of income is grossly insufficient for such cash deposits in the bank.

3. As per the statement of Ms. Ruby Singh recorded u/s 131 of Income Tax Act by the DDIT, Investigation, Delhi she had clearly mentioned that all payments are received through banking channels and no payment received in cash in last six to seven years. Therefore, there is no possibility of any availability of cash with the appellant which could have been deposited in the bank account during the year. Further, as per the return of income there is no business income in this year.

4. The appellant deposited cash in her saving bank account on several occasions. The appellant did not mention any specific reason for depositing cash in her bank account during the year.

5. There is no justification of making regular deposits in bank even out of the personal cash in hand, if any.

6. Cash available out of rental income, if any, was only sufficient to meet the day to day expenditure of the appellant for which no cash drawings have been mentioned even in the personal cash account.

7. From the accounts submitted by the appellant it cannot be concluded as to how the appellant has incurred a personal and other house hold expenses during the year. In the assessment year 2013-14 the cash drawings were Rs. 18,23,900/- and during the year under consideration there were only a minimal cash drawings of Rs. 20,000/-.

4.2.12 The appellant argued that the cash deposits were made in the bank accounts out of the cash withdrawals made from the bank accounts of the appellant. It is observed that during the year, the appellant deposited an amount of Rs. 18,91,000/-, whereas the withdrawal from banks were only Rs. 9,63,000/-. Therefore, prima face the deposits cannot be explained by cash withdrawals. Further, the withdrawals from the current bank account are being made for certain purpose of been made in the current account or saving accounts almost every month and were re-deposited in September, November, December, January and February. It has not understood as to why the appellant has been making withdrawals from the bank accounts almost every month and depositing the cash in bank accounts after sometime. As a prudent businessmen, it is expected that withdrawals could be made after exhausting the existing cash in hand and therefore, the cash withdrew over the months cannot be said to be available for re-depositing in the bank. The withdrawals of Rs.1,00,000 in April 2018, Rs.2,08,000/- in May, Rs.1,05,000/- in May, Rs.3,50,000/- in July and Rs. 1,10,000/- in August are being made for certain utilisation for business purposes and not for accumulating the same for re-deposition in the bank account in the month of September. The appellant did not provide any evidence of cancelled

projects for which these withdrawals have been made. The arguments submitted by the appellant that when cash is needed for some project and due to certain eventualities like bad weather, non-availability of permission at certain places to shoot the serial or political disturbances, as the shoot was either in Jammu & Kashmir and North Eastern state, and then the cash withdrawals were re-deposited in the bank if the shoot was cancelled is also does not appear to be convincing. Further, no evidence of payments to contractors or anyone else in cash and its subsequent return has been filed during the course of proceedings. Regular withdrawals from current and saving accounts have been made and the amounts must have been utilised for business or other purposes and therefore the same were not available for depositing in bank account. Therefore appellant's explanation that the amounts withdrawn from bank were re-deposited in the bank is prima facie incorrect and is devoid of merit.

4.2.13 During the year, there are no business receipts in the appellant's proprietorship firm and indirect expense amounting to Rs. 3,21,459/- have been booked resulting in a net loss of Rs.3,21,459/-. The Assessing Officer clearly pointed out that on perusal of bank account statement and the cash ledger of the appellant, it cannot be concluded that the appellant has made payment of expenses from the bank account or in cash. As per the cash book submitted by the appellant there are cash drawings amounting to Rs. 20,000/- only. It is difficult to imagine as how the appellant has incurred her household expenses as there are hardly any cash drawings. Rental income, if any, if received in cash was only sufficient for the household expenses of the appellant.

*4.2.14 In view of the above, I am of the considered opinion that the source of cash deposited in the bank account remains unexplained and there is no reason to interfere with the order of the Assessing Officer. The Assessing Officer has correctly held that the cash amounting to Rs.20,00,000/- is unaccounted cash available with the appellant earned during F.Y. under consideration and not offered for taxation in her Income Tax Return. Accordingly, the addition of cash deposit made to the total income of the appellant as unexplained cash credit u/s 68 r.w.s 115BBE of Income Tax Act is hereby confirmed. However, there is a discrepancy in the figure of addition of cash deposit (Rs. 20,00,000/-) and the details of cash deposit (Rs. 18,91,000/-) submitted during the assessment and appellate proceedings. The Assessing Officer can carry out necessary verification and the amount of addition may be corrected, if required after verification from records. Accordingly, **Ground Nos. 2, 3, 4 & 5 of appeal are dismissed.***

10.4 On careful consideration of the rival submissions, action of the AO and conclusions recorded by the Ld. CIT(A) while upholding the addition, we note that Ld. CIT(A) firstly considered the allegations and the basis taken by the AO for making the addition and thereafter reproduced the monthwise cash flow statement showing cash deposit and withdrawal from the bank accounts of the assessee which was submitted by the assessee before the AO during the course of appellate proceedings. Thereafter, the Ld. CIT(A) noted that the opening cash in hand of personal account of Ms. Ruby Singh was not supported by the documentary evidence and if there was any cash in hand the same was exhausted or spent in the property and related transactions in assessment year 2013-14 and household expenses incurred during the subsequent period. Ld. CIT(A) after considering the documentary evidence of the assessee concluded that no documentary evidence, supporting the cash flow statement, was available with the appellant for explaining the deposit in the bank account during the financial period 2018-19 (AY 2019-20) and said finding was clearly based on the right evaluation of facts and the circumstances of the case and cash flow statement filed by the assessee. Ld. CIT(A) also noted that as per statement of assessee recorded u/s. 131 of the Act by the DDIT (Investigation), New Delhi, the assessee stated that all the payments were received through banking channels and no payment received in cash during the last 6 to 7 years, therefore, there was no possibility of availability of cash with

the appellant which could have been deposited in the bank account of the assessee during relevant financial year.

10.5 On being asked by the bench, the ld. Counsel for the assessee could not demolish the observations of the authorities below that as per return of income filed by the assessee for AY 2019-20, there was no business income during the period under consideration. The assessee also failed to justify the reason for depositing cash to her bank account during the year and making regular cash deposits in the bank out of personal cash in hand, if any. Ld. CIT(A) thus rightly observed that despite request, the assessee did not submit the rental agreement also taking into account explanation of the assessee that cash available out of rental income, if any, was only sufficient to meet the day to day expenditure of appellant for which no cash drawings have been mentioned even in the personal cash account. Ld. CIT(A) also evaluated the pattern of cash deposits and withdrawals by the assessee from her bank accounts and thereafter concluded that it is expected that withdrawal can be made after the exhausting or spending the existing cash in hand and therefore, the cash withdrew every month cannot be said to be available with the assessee for redepositing in her bank account. Ld. CIT(A) thus rightly dismissed the explanation of the assessee regarding withdrawal of cash for the purpose of shoot and on the spot cash payments as there was no evidence establishing that the cash was needed for some projects and due to certain

eventualities like bad weather, non-availability of permission at certain places to shoot the serial or political disturbances, as the shoot was either in Jammu and Kashmir and North Eastern state, and then the cash withdrawal was redeposited in the bank on the cancellation of shoot. Ld. CIT(A) upheld the addition by finally observing the source of cash deposit in the bank account remained unexplained and hence, the Ld. CIT(A) was quite correct and justified in upholding the addition made by the AO, hence, we are unable to see any ambiguity, perversity or any valid reason to interfere with the findings recorded by the Ld. CIT(A) and AO, hence, we uphold the same. Accordingly, the ground no. 5 and 6 of the assessee's appeal for assessment year 2019-20 being devoid of merits are dismissed.

11. In the result, all the seven captioned appeals filed by the assessee stand dismissed in the aforesaid manner.

Order pronounced on 29/09/2023.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-

(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Copy forwarded to: -

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

Assistant Registrar