

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.4842/DEL/2016  
[Assessment Year: 2011-12]**

Income Tax Officer, Ward-1(4), 13A-Subhash Road, Dehradun, Uttrakhand	Vs	Smt. Krishna Devi, 296 Dharampur Chowk, Mata Mandir Road, Dehradun, Uttrakhand
		<b>PAN-AKGPD1292B</b>
Revenue		Assessee

Revenue by	Sh. A.S. Rana, Sr. DR
Assessee by	None

<b>Date of Hearing</b>	<b>20.09.2023</b>
<b>Date of Pronouncement</b>	<b>.09.2023</b>

**ORDER**

**PER SHAMIM YAHYA, AM,**

This appeal by the Revenue is directed against the order of the Ld. CIT(A)-Dehradun, dated 27.07.2016 pertaining to Assessment Year 2011-12.

2. Grounds of appeal raised by the Revenue reads as under:-

*“1. That the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.1,81,00,000/- made u/s 56(2)(vii)(a) treating that the sum of Rs.1,81,00,000/- is loan.*

*2. That the order of the Ld. CIT(A) be set aside and that of the AO be restored.”*

3. In this case, the AO noted that the assessee has received Rs.1.68 Crores and Rs.13 lakhs through RTGS clearing in his bank account. On enquiry, it was noted that the Shri Ram Adhar Dass had sold a piece of land and the money had been transferred by Shri Ram Adhar Dass who

happens to be the Guru of assessee's parents. The AO noted that Smt. Krishna Devi is not related to Shri Ram Adhar Dass and receipt of money by her was without consideration. The assessee filed an affidavit from Shri Ram Adhar Dass but the AO treated as an afterthought. He added the amount to the assessee's income u/s 56(2)(vii)(a) of the Act.

4. Upon assessee's appeal, the Ld. CIT(A) observed that the AO has not cared to cross examine Sh. Ramadhaar Dass to prove his contention that the amount transferred was not an unsecured loan. He further noted that the same amount Rs.1.81 crores is only a loan in the hands of the assessee. He further observed that the creditor is having the necessary creditworthiness to advance the loan to the assessee as apparent from his Income Tax Return and bank statements. He proceeded to delete the addition.

5. Against the above order, the Revenue is in appeal before us.

6. Since long time, nobody is representing the assessee. Today also, no one has come to represent the assessee, hence, we proceed to adjudicate the issue by hearing the ld. DR and perusing the record.

7. Upon careful consideration, we find that the ld. CIT(A) has found fault with the AO is not in cross examining Sh. Ramadhaar Dass. Here it is noted that the power of Ld. CIT(A) is co-terminus with the AO. The Ld. CIT(A) could have very well allowed cross examining the said person instead of finding a fatal fault in the assessment. Furthermore, he has merely observed that the creditor is having the necessary creditworthiness to advance the loan to the assessee as apparent from his Income Tax

Return and bank statements. In this regard, the Ld. CIT(A) has not brought out any details of as to how he has found the creditworthiness of the creditors to be sufficient. We note that the creditworthiness of the creditors was also not proved before the AO. Hence, in the interest of justice, we remit this issue to the file of the AO. The AO is directed to examine the issue afresh in the light of our observation. Needless to say, the assessee be granted opportunity of being heard.

8. In the result, this appeal by the Revenue stands allowed for statistical purposes.

Order pronounced in the open court on 26<sup>th</sup> September, 2023.

**Sd/-**  
**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

**Delhi;** 26.09.2023.

*Shekhar,*

Copy forwarded to:

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

**Sd/-**  
**[SHAMIM YAHYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi