

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

BEFORE,

**SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.1321/Del/2020
(ASSESSMENT YEAR 2015-16)**

Shri Deepak Singhal 249, Bharat Apartments Plot No.20, Sector-13 Rohni Delhi-110 085 PAN-APNPS 2606A (Appellant)	Vs.	Income Tax Officer Ward-36(4) New Delhi (Respondent)
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Appellant by	Mr. Tarun Rohatgi, CA
Respondent by	Mr. Vivek Kumar Upadhyay, Sr. DR
Date of Hearing	10/08/2023
Date of Pronouncement	12/10/2023

ORDER

PER YOGESH KUMAR U.S., JM:

This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-Delhi-13 [“Ld. CIT(A)”, for short], dated 28/02/2020 for Assessment Year 2015-16.

2. Grounds taken in this appeal are as under:

“1. On the facts and in the circumstances of the case and in law, the CIT(A) erred in confirming addition u/s. 68 of the Act in respect of the following parties and amounts:

- a. Urmila Deosaria- Rs. 1,00,000/-
- b. Consolidated Infracon (P) Ltd.- 20,00,000/-
- c. Amrapali Saraogi- 8,50,000/-
- d. Preeti Singhal- 5,53,000/-
- e. Alka Gupta-30,00,000/-

2. On the facts and in the circumstances of the case and in law, the CIT(A) erred in not considering material and evidence as placed on her record, after obtaining the same through repeated requests for inspection of the assessment record;

3. On the facts and in the circumstances of the case and in law, the CIT(A) erred in returning a perverse finding of fact qua the date of retraction of Mr. Sajjan Kumar Garg's statement, failing to appreciate the evidence placed on record;

4. On the facts and in the circumstances of the case and in law, the CIT(A) erred in not providing cross-examination of Mr. Sajjan Kumar Garg, qua amounts raised and interest paid to Consolidated Infracon (P) Ltd., and in making adverse inferences on the basis of such evidence;

5. On the facts and in the circumstances of the case and in law, the CIT(A) erred in holding that M/s.Consolidated Infracon (P) Ltd. was a shell company, failing to note that in the assessment orders for the said company placed on record, no adverse inference was drawn;

6. On the facts and in the circumstances of the case and in law, the CIT(A) erred in confirming addition of Rs. 40,000/- u/s. 69C in the absence of any proof of the said expenditure being incurred;

The assessee seeks leave to add to, alter, amend, delete and/or modify any or all of the grounds raised herein."

3. Brief facts of the case are that, the assessee filed return of income declaring income of Rs. 13,08,360/- which has processed u/s 143(1) of the Act. Subsequently, on the basis of the information received from ITO, Ward 3(4), Kolkata to the effect that during the course of regular assessment proceedings

of his assessee M/s Amtek Financial consultants Pvt. Ltd., assed by him, it was held that the said Company is a fake/shelter company, therefore, the persons /parties who have alleged to have taken loan from the said Company are enjoying accommodation entries. After recording satisfaction reasons, the case was manually selected for scrutiny and the notices u/s 143(2) of the Act was issued. An assessment order u/s 143(3) of the Act came to be passed by making addition of Rs. 20,40,000/- u/s 68 of the Act, further made addition of Rs. 18,88,000/- as the loan shown from Priti Singhal held to be not genuine and added back to the income of the assessee u/s 68 of the Act and also made addition of Rs. 1,10,95,865/- which has been disclosed in the names of different persons/parties as assessee's own money and the A. O. treated the same from undisclosed source and added back u/s 68 of the Act.

4. Aggrieved by the assessment order dated 30/12/2017, the assessee preferred an appeal before the CIT(A), the Ld. CIT(A) vide order dated 28/02/2022, sustained the addition made u/s 68 of the Act in respect of following parties:-

- “a. Urmila Deosaria- Rs. 1,00,000/-*
- b. Consolidated Infracon (P) Ltd.- 20,00,000/-*
- c. Amrapali Saraogi- 8,50,000/-*
- d. Preeti Singhal- 5,53,000/-*
- e. Alka Gupta-30,00,000/-”*

The Ld. CIT(A) also confirmed the addition of Rs. 40,00,000/-made u/s 69 of the Act. Aggrieved by sustaining of the above additions by the CIT(A), the assessee preferred the present Appeals on the grounds mentioned above.

5. The Ground No. 1 to 5 are regarding addition made on five unsecured loans u/s 68 of the Act. It is the case of the assessee that the complete details were filed in response to notice u/s 133(6) to prove the identity, genuineness and creditworthiness of the lenders, the interest paid/debited in books have been fully allowed in the assessment and there is no disallowance of the same and the TDS have been duly debited, the lenders were repaid after the end of Financial Year and before the start of assessment proceedings and there is no cash deposited in any of the lenders account. The Ld. Counsel has taken us through the paper book and submitted that the Lower Authorities have failed to appreciate the documents produced by the assessee which conclusively prove the identity, genuineness, creditworthiness of the lenders.

6. Per contra, the Ld. Departmental Representative relied on the order of the Lower Authorities and submitted that the addition made by the A.O. u/s 68 in respect of above five creditors are deserves to be confirmed as the assessee failed to prove the identity, and creditworthiness of the lenders and the genuineness of the transaction. Thus, sought for dismissal of the Appeal.

7. We have heard both the parties and perused the material available on record. The Ld. CIT(A) while deciding the said issue held as under:-

“The detailed chart of loans given and taken by the appellant during the relevant period show that the total addition/amount of loan introduced was Rs. 86,39,000/-. Similarly, the total repayments during the year were Rs. 53,35,500/-. The details are given in the chart below:-

Sr. No. (1)	Name (2)	Amount Introduced (3)	Amount Returned (4)	difference (5)	Amount introduced in the relevant F.Y. which is to be Added u/s 68. (6)
1.	Urmila Deosaria	2,00,000	1,00,000	1,00,000	1,00,000
2.	Nitin Garg		2,99,500		
3.	Aditya Khaitan		2,50,000		
4.	Excel Financial consultants P. Ltd.		10,00,000		
5	Amtek Financials Consultants P Ltd.	5,00,000	10,00,000	5,00,000	
6	Zircon Infracon P. Ltd.		5,00,000		
7	Ramesh Kuamr Deosari (RD Steels)		2,00,000		
8	Consolidated Infracon P. Ltd.	20,00,000			20,00,000
9	Amarpali Sararogi	8,50,000			8,50,000
10	Dinesh Lavania		2,50,000 2,00,000		

11	Preeti Singhal	10,89,000	5,36,000	5,53,000	5,53,000
12	Alka Gupta	15,00,000	5,00,000	10,00,000	10,00,000
		10,00,000	5,00,000	5,00,000	5,00,000
		15,00,000			15,00,000
	TOTAL	86,39,000	53,35,500/-	26,53,000	65,03,000

8. It is the specific plea of the Assessee before us that the documents have been produced by the assessee during the assessment proceedings to prove the identity, genuineness and creditworthiness of the lenders and taking into account of the fact that the Ld. CIT(A) has not discussed and gave any finding on the documents produced by the assessee and decided the Appeal without assigning any reasons and the order of the CIT(A) being non speaking and cryptic one, we restore the issue to the file of the A.O. for de-novo adjudication with a direction to consider all the documents produced by the A.O. and decide the issue afresh in accordance with law. Accordingly we partly allow the Ground No. 1 to 5 of the assessee for statistical purpose.

9. Further the Ground No. 6 is regarding the addition of Rs. 40,000/- made u/s 69C on account of commission charges paid for arrangement of the entries of Rs. 20,00,000/-. The CIT(A) has confirmed the same without assigning any reason, therefore, we deem it fit to restore the issue involved in Ground No. 6 also to the file of the A.O. to decide the same along with other Grounds. Accordingly, Ground No. 6 is partly allowed for statistical purpose.

10. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in open Court on 12th October, 2023.

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER
Dated: 12/10/2023
Pk/R.N, Sr ps

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI