

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'A' : NEW DELHI)
BEFORE SH. G.S.PANNU, HON'BLE PRESIDENT
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 1337/Del/2022
(Assessment Year : 2016-17)**

Dy. Commissioner of Income Tax , Central Circle-6 New Delhi (APPELLANT)	Vs.	Sh. Bharat Sawhney F-3/18 Vasant Vihar New Delhi-110017 PAN : AATPS0018F (RESPONDENT)
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Revenue by	Sh. Kanv Bali, SR DR
Assessee by	Sh. M P Mittal, CA & Sh. Balwant Singh, Adv.

Date of hearing:	21.08.2023
Date of Pronouncement:	18.10.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been preferred by the Revenue against the order dated 14.03.2022 of CIT(A)-30, New Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No. 10316/2018-19 arising out of an appeal before it against the order dated 28.12.2018 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ACIT, Central Circle-30, New Delhi (hereinafter referred as the Ld. AO).

2. The assessee filed return of income declaring total income of Rs. 15,70,580/- and the case of assessee was selected for limited scrutiny under the CASS. Ld. AO examined the unsecured loans from two parties Sh. Dharmvir Vaid of Rs. 20 lakhs and Manick Nangia of Rs. 1,48,50,000/- and being unsatisfied of the details given by the Assessee made the addition u/s 68 of the Act. Ld. CIT(A) has deleted the addition with following relevant findings in para no. 8.1 and 8.2 as follows ;

“8.1 Unsecured loan received from Mr. Manick Nangia (Rs. 1,48,50,000/-)”

During the appellate proceedings, the appellant has mentioned that the AO has wrongly remarked that the ITR of Mr. Manick Nangia was not submitted along with the confirmation of loan. He has drawn my attention to the submission made before the AO dated 14.12.2018 in which ITR of Mr. Manick Nangia (PAN No. AKCPN0218K) was filed before the AO along with the confirmation signed by the lender and the statement of bank account showing the transactions. As the AO did not mention any other reason for not accepting the explanation of the appellant in case of unsecured loan received from Mr. Manick Nangia other than the non-submission of ITR, the appellant argued that the addition cannot be sustained.

The ITR of Mr. Manick Nangia was submitted before the assessment proceedings along with a document. Therefore, on perusal of submission, I find that the unsecured loan from Mr. Manick Nangia amounting to Rs. 1,48,50,000/- is considered explained and the AO is directed to delete the addition in this regard.

8.2 Unsecured loan received from Mr. Dharamvir Vaid (Rs. 20,000,000/-)”

During the appellate proceedings, it has been stated by the appellant that the loan which was appearing in the name of Mr. Dharamvir Vaid was a wrong entry due to inadvertent mistake of the accountant. He has further stated that this fact was explained to the AO during the assessment proceedings by filing reconciliation

statement of Mr. Dharamvir Vaid. The reconciliation statement filed by the appellant during the assessment proceedings is reproduced as under-

Reconciliation statement of Mr. Dharam Vir Vald

Balance as per our books = 20,00,000.00

Balance as per books of Dharamvir Vaid = NIL

Difference = 20,00,000.00

Explanation of Difference

Cheque no. 272297 dated 04/03/2018 of Rs. 20,00,000/- issue to Mr. Dharm Vir Vaid by Bharat sawhney but by mistake entered in the account of Dharmender Kumar. The same entry rectified in the books on 01.04.2016. Therefore I request yourself that balance of Dharm Vir Vaid treated nil instead of Rs.20,00,000/- due to clerical error. Copy of bank statement and A/c statement enclosed for your record and verification.

The reconciliation statement submitted by the appellant has been explained to the undersigned and it has been found that the amount was inadvertently reflecting in the name of Mr. Dharamvir Vaid in the books of account of the appellant. The amount was squared off in the FY 2012-13. The AO without investigating the veracity of reconciliation statement filed by the appellant had mechanically made addition u/s 68 of the Act during the impugned assessment year. As the appellant has shown that the loan of Rs.20,00,000/- received from Mr. Dharamvir Vaid was received in A.Y. 2012-13, therefore, the addition cannot be made in the A.Y. 2016-17. The said amount was not credited during the year under consideration. Accordingly, AO is directed to delete the addition of Rs. 20,00,000/- made by him u/s. 68 of the Act.”

3. The Revenue is in appeal raising following grounds ;

“1. Whether on facts & in the circumstances of the case and law, the ld. CIT(A) erred in law and on facts in deleting addition of Rs. 1,48,00,000/- made by the AO u/s 68 of the IT Act, 1961.

2. Whether on facts & in the circumstances of the case and law, the ld. CIT(A) erred in law and on facts in relying only upon the ITR filed by the assessee during the appellate proceedings.

3. On the facts and in the circumstances of the case, the ld. CIT(A) has erred in law and on facts by not appreciating the facts that all three limbs of section u/s 68 viz. identity, creditworthiness and genuineness has not been proved in the assessee's case.

4. The appellant craves leave to add, alter amend any ground of appeal raised above at the time of hearing.”

4. Heard and perused the record.

5. Ld. DR supported the findings of ld. AO while Ld. AR relied the order of Ld. CIT(A). It was also submitted on the queries raised by the Bench that the amount of Rs. 1 crore 48 lakhs was taken as a loan on interest and the same also stand repaid in the subsequent years.

6. Giving thoughtful consideration to the matter on record it can be observed that the order of ld. AO does not take into consideration any factual assertion of the assessee or even the evidences. However, before Ld. CIT(A), the Assessee was able to impress that all the necessary details were given to AO vide letter dated 14.12.2018 and without examining the details documents the impugned assessment order was passed and in para 6, Ld. CIT(A) has reproduced the details submission of the assessee and which has been relied in giving findings in para 8.1 and 8.2 as reproduced above.

7. The confirmation signed by the lender and the statement of bank account showing the transactions have been relied by ld. CIT(A) and there is nothing before the bench to show that in any manner the identity of the party or capacity was otherwise doubtful. In fact Ld. AO has fallen in his duty to take note of evidences of assessee and further failing to make any attempt in making relevant

inquiries from the said parties even. Before us, on behalf of the assessee further details have been filed showing repayment of loan along with interest in the period 01.04.2016 to 31.07.2021. Thus, Bench has no hesitation to conclude that the grounds raised by the Revenue have no substance. **The appeal of Revenue is dismissed.**

Order pronounced in the open court on 18th October, 2023.

**Sd/-
(G.S.PANNU)
PRESIDENT**

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Date:- 18.10.2023

Binita, SR.P.S

Copy forwarded to:

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

AR, ITAT
New Delhi