

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH :H: DELHI)**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT &  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 4776/Del/2019  
Assessment Year: 2015-16**

ACIT, Circle-54(1), New Delhi  (PAN:AAEFJ1537D)	Vs.	Jagmag Builders, G-42, Lajpat Nagar-II, New Delhi-1100 24
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Department by : Shri Amit Katoch, Sr. DR  
Assessee by : Shri CS Anand, Adv.

Date of Hearing : 12.10.2023  
Date of Pronouncement : 25.10.2023

**ORDER**

**PER SAKTIJIT DEY, VICE PRESIDENT:**

This is an appeal by the Revenue against order dated 18.02.2019 passed by the learned Commissioner of Income-Tax (Appeals)-36, New Delhi pertaining to assessment year 2015-16.

2. The Revenue has raised two grounds. In ground no.1, it has challenged deletion of addition of Rs.2,67,05,959 made by the Assessing Officer towards unexplained cash credits under Section 68 of the Income-Tax Act,1961. Whereas in ground no.2, Revenue has challenged

deletion of addition of Rs.50,05,512, being disallowance of interest on the unsecured loan added as unexplained cash credits.

3. Briefly, the facts relating to the foresaid issues are, assessee is a partnership firm stated to be engaged in real estate business. For the assessment year under dispute, assessee filed its return of income on 04.09.2015 declaring income of Rs.54,74,820.

4. In course of assessment proceedings, the Assessing Officer while verifying the financial statement of the assessee, noticed that the closing balance of unsecured loan availed from various companies and individuals amounted to Rs.18,69,52,809. Noticing this fact, the Assessing Officer called upon the assessee to prove the source of such loan. Further, to independently verify the genuineness of the loan transactions, the Assessing Officer issued notice under Section 133(6) of the Act to the concerned parties. As observed by the Assessing Officer, some of the parties replied directly whereas in respect of others' replies were received through the assessee. Thus, he issued a show cause notice to the assessee to explain why the amount of unsecured loan should not be treated as unexplained cash credits. In response to the show cause

notice, the assessee furnished its reply with supporting evidences. It was the stand of the assessee that major part of the unsecured loan do not relate to the impugned assessment year but have been availed in earlier assessment years. It was submitted that in the current year, the assessee has received loan of Rs.2,26,28,616 on 01.04.2014 and after adding the provisions of interest of Rs.89,25,830 outstanding balance was Rs.3,15,54,446. It was submitted, since, the concerned lender had died in October 2004, the loan was transferred in the name of her husband. The Assessing Officer, however, was not convinced with the submissions of the assessee with regard to eighteen lenders representing agreeable loan amount of Rs.2,67,05,959. Accordingly, he added back the amount under Section 68 of the Act. The corresponding interest expenditure amounting to Rs,50,05,512 was also disallowed. The assessee contested the addition/disallowance before learned First Appellate Authority. After appreciating the submissions of the assessee in the context of facts and material available on record, learned Commissioner (Appeals) deleted both the additions.

5. We have considered rival submissions and perused the material on record.

6. From the evidences furnished by the assessee before the departmental authorities, it is established that the entire loan, which is subject matter of addition, as unexplained cash credit has been repaid either in the year under consideration or subsequent assessment years. The entire transaction relating to availing of and repayment of loan has been done through banking channel. All details relating to loan availed and repayments made have been furnished before the departmental authorities, the details of which have been produced at pages 24 to 29 of the order of learned First Appellate Authority. It is also a fact on record that assessee has furnished all supporting evidences not only to prove the identity of the lenders but even creditworthiness as well as genuineness of the transaction by furnishing their bank statements, income-tax return copy, confirmations etc. Thus, it is evident, assessee has discharged its onus of proving the identity and creditworthiness of the creditors as well as genuineness of the loan transactions. Therefore, in our considered opinion, learned First Appellate Authority was justified in deleting the addition of Rs.2,67,05,959 made under Section 68 of the Act. Since, the addition made under Section 68 of the Act has been deleted, as a natural corollary, the disallowance of interest paid on

such loan also has to be deleted. Accordingly, we do so. Grounds are dismissed.

7. In the result, the appeal is dismissed.

*Order pronounced in the open court on 25<sup>th</sup> .10.2023.*

**Sd/-**

**( DR. BRR KUMAR )  
ACCOUNTANT MEMBER**

**Sd/-**

**(SAKTIJIT DEY)  
VICE-PRESIDENT**

**Dated: 25<sup>th</sup> October, 2023  
Mohan Lal**

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi