

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'G' BENCH  
DELHI**

**BEFORE: SHRI KUL BHARAT, JUDICIAL MEMBER  
&  
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.1938/Del/2022  
(Assessment Year: 2014-15)**

Sambhav Buildwell (P) Ltd., 16-D, Community Centre, Basant Lok, Vasant Vihar, New Delhi 110057	Vs.	The ACIT, Central Circle-13, New Delhi
<b>PAN/GIR No. AALCS 4983 Q</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Gaurav Jain, Adv. Ms. Sweta Bansal, CA
Revenue by	Shri Subhra Jyoti Chakraborty, CIT-DR
<b>Date of Hearing</b>	<b>17/10/2023</b>
<b>Date of Pronouncement</b>	<b>30/10/2023</b>

**ORDER**

**PER M. BALAGANESH (A.M.):**

This appeal in ITA No.1938/Del/2022 for A.Y. 2014-15 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-26, Delhi in appeal No.10348/17-18 dated 21.07.2022 (hereinafter referred to as Id. CIT(A) in short) against the order of assessment passed u/s.153A r.w.s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 20.12.2017 by the Id. ACIT, Circle 13, New Delhi (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in confirming the addition made towards unsecured loan of Rs. 3,25,00,000/- u/s. 68 of the Act in the facts and circumstances of the instant case. The interconnected issue involved thereon is whether the Ld. CIT(A) was justified in

confirming the addition made on account of unexplained expenditure of Rs. 3,25,000/- u/s. 69C of the Act, treating the receipt of unsecured loan as a bogus transaction in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. A search and seizure operation u/s. 132 of the Act was conducted at the premises of the assessee on 23.07.2015. Notice u/s. 153A of the Act was issued to the assessee on 10.07.2017 and duly served on it. In response to the notice u/s. 153A of the Act, the assessee filed its return of income for A.Y. 2014-15 on 09.08.2017 declaring total income of Rs. 2,860/-. The Ld. AO observed that during the course of continuance of search and seizure operation, a statement was recorded from the Director of the assessee company Mr. Maninder Kumar Sahni on 19.08.2015 u/s. 132(4) of the Act in which he failed to explain the sources of unsecured loans amounting to Rs. 1,00,00,000/- received from M/s. I. Tech Insurance Brokers P. Ltd. and Rs. 2,25,00,000/- received from M/s. Sridhar Portfolio Management P. Ltd. The Ld. AO noticed that no interest was paid on the aforesaid loans by the assessee. Based on the pre and post search investigation conducted by the Investigation Wing of Income Tax Department, New Delhi, wherein it transpired that the aforesaid entities were merely shell companies involved in providing accommodation entries, the Ld. AO proceeded to treat the receipt of loan transaction from these two companies as bogus accommodation entries. The Ld.AO directed the assessee to prove the three necessary ingredients of section 68 of the Act viz. identity of the lender, creditworthiness of the lender and genuineness of the transaction. The assessee submitted vide letter dated 05.12.2014 copy of the bank statement and confirmation from the loan creditors duly confirming the fact of advancing loans to the assessee company. The assessee also submitted that a sum of Rs. 45,00,000/- was even repaid during the year to Sridhar Portfolio Management Pvt Ltd.

4. The assessee also furnished the bank statement vide letter submitted on 15.11.2017 to prove the fact that this transaction was routed through regular banking channel. The Ld. AO observed that assessee though stated to have enclosed the confirmation of the lenders along with the covering letter, but in reality, those

confirmations were not on record. Further while furnishing the details by the assessee for A.Y. 2015-16 & 2016-17, in the balance sheet of the assessee, the unsecured loans were reflected at Rs. Nil. Accordingly, the Ld. AO concluded that the assessee had not even discharged its primary onus by filing requisite details to prove the genuineness of the loan transaction and creditworthiness of loan creditors. The Ld. AO not being satisfied with the contentions of the assessee proceeded to treat the receipt of unsecured loans amounting to Rs. 3,25,00,000/- as unexplained cash credit u/s. 68 of the Act. Since the said receipt has been treated as bogus accommodation entry, the Ld. AO also estimated commission expenditure @1% thereon and added a sum of Rs. 3,25,000/- towards unexplained expenditure u/s. 69C of the Act.

5. The assessee furnished the copy of ITR acknowledgment for A.Y. 2014-15 of the lenders; audited financial statements for the year 31.03.2014, confirmation from the lender for the loan given by them to the assessee and bank statement of the lender duly reflecting the transaction of loan given to the assessee company before the Ld. CIT(A) together with the name, address and PAN of the lenders before the Ld. CIT(A). It was submitted that the lenders had sufficient shareholders funds (i.e own funds) in the form of share capital and reserves and surplus which are several times more than the loan amount advanced to the assessee company and hence the creditworthiness of the lenders stand proved beyond reasonable doubt. With regard to the statement of the Director of the assessee recorded on 19.08.2015 u/s. 132(4) of the Act, the assessee submitted that in reply to question no. 34, the Director at that point in time had stated that he was not aware that the aforesaid two lender companies were non-descript companies controlled by Mr. Deepak Agarwal. The Director further stated that he would try to obtain confirmation from the said parties. The Director had also admitted that he did not know the Directors or shareholders of these lenders companies as Mr. Deepak Agarwal arranged these sums. Since Mr. Deepak Agarwal did not provide necessary details to the Director of the assessee company, he replied that he was not aware about activities of the two lenders companies or its Directors. However it was pointed out that the Director of the assessee company in his statement recorded during search had admitted that the

loans received were stated to be ingenuine under pressure from the Income Tax Department. Later the Director had approached all the lender companies and obtained their requisite documents and furnished before the Ld. CIT(A) to prove the three necessary ingredients of section 68 of the Act. The Ld. CIT(A) examined the details furnished by the assessee in the form of additional evidences. The Ld. CIT(A) found that M/s. I. Tech Insurance Brokers P. Ltd. had returned income for the A.Y. 2014-15 of Rs. 84,302/- only and head fixed assets at Rs. 23,192/- consisting of computer and the total revenue from operations earned by the said company was only Rs. 12,000/-. The Ld. CIT(A) analysed the entire bank account of M/s. I. Tech Insurance Brokers P. Ltd. for the whole year i.e. from 01.04.2013 to 31.03.2014 and observed that before the issuance of loan amounts to the assessee, there were credits from various parties in the bank account of the lender which goes to prove that these are merely accommodation entries and that the said concern is engaged in layering of transactions. With regard to loan received from M/s. Sridhar Portfolio Management P Ltd., the Ld. CIT(A) observed that the said company had disclosed income in its return of Rs. 3,22,670/- for A.Y. 2014-15 on the total revenue from operations of Rs. 62,43,422/- apart from having fixed assets of Rs. 36,364/- consisting of computer and furniture & fixtures. The Ld. CIT(A) analysed the bank statement of the said lender company for the period 01.04.2013 to 31.03.2014 and found that there were huge credits in the bank account immediately prior to the issuance of loan amounts to the assessee company. Accordingly, it was concluded by the Ld. CIT(A) that the said lender company is engaged in layering of transactions in order to provide accommodation entries to various parties including the assessee company. Accordingly, the Ld. CIT(A) upheld the action of the Ld. AO and concluded that the loans received by the assessee company from two parties are merely accommodation entries which has been rightly added as unexplained cash credit u/s. 68 of the Act by the Ld. AO. Consequentially the commission expenditure of Rs. 3,25,000/- added u/s. 69C of the Act by the Ld. AO was also upheld by the Ld. CIT(A). Aggrieved the assessee is in appeal before us.

6. It is a fact that pursuant to the search conducted on the assessee and its group companies, simultaneously a search action was also carried out on Mr.

Deepak Agarwal and Mr. Mukesh Kumar who were alleged by the tax authorities to be accommodation entry providers. We find the sole basis for making addition in the hands of the assessee by treating the receipt of unsecured loans as accommodation entries was the statement of the Director of the assessee company recorded u/s. 132(4) of the Act and again u/s. 131 of the Act. The said statement is not supported with any collaborative material found during the course of search on the assessee as well as in the search of the above entry operators and there was absolutely no material found during the search which would even remotely suggest that the loans received by the assessee represented accommodation entry. It is not in dispute that the loans received by the assessee from the aforesaid two lender companies were through proper banking channels. The loans given by the lender companies were duly reflected in their respected audited financial statements. It is not in dispute that assessee had furnished the ledger account of the assessee as appearing in the books of the lender company which were also duly countersigned and confirmed by the lender company by mentioning their PAN and signature of the Director thereon. The said confirmation goes to prove that the loans were given by them to the assessee company through regular banking channels and the fact of advancing loans to the assessee company were also confirmed by them. Two lender companies are having own funds of Rs. 15.15 crores in the case of M/s. I. Tech Insurance Brokers P Ltd. and Rs. 13.76 crores in the case of M/s. Sridhar Portfolio Management P Ltd., which are much more than the amounts advanced to the assessee company. This goes to prove the creditworthiness of the aforesaid two lender companies. All the lender companies are independently assessed to Income Tax and have been filing their income tax returns and their annual returns enclosing the audited financial statements and other statutory documents with the Registrar of Companies regularly. This goes to prove the identity of the two lender companies. The transactions of loans given by these two lenders companies to the assessee company have been routed through regular banking channels and had been duly reflected in their audited balance sheets. This is also supported by the confirmation given by the lender companies to the assessee which is also placed on record. This proves the genuineness of transaction. Both the lender companies are having sufficient own funds as detailed supra which goes to prove the creditworthiness of

the lender companies. Accordingly all the three necessary ingredients of section 68 of the Act, has been fulfilled by the assessee in the instant case. We find that in the instant case , absolutely no adverse inferences were drawn by the Ld. AO on the documents furnished by the assessee. No notice u/s. 133(6) of the Act were even sought to be issued by the Ld. AO to examine the veracity of the documents furnished by the assessee. The sole basis of addition was only the statement of the Director which is without any collaborative evidence found by the Revenue even in the course of search. Further we find M/s. Pegasus Integrated Systems P. Ltd. was also covered in the same search wherein similar allegation was made on them of taking accommodation entry from the companies alleged to be operated by Shri Deepak Agarwal and Shri Mukesh Kumar (as alleged entry providers). Accordingly, an addition u/s. 68 of the Act was made in their hands on the basis of statement of their Director. The matter came up before this Tribunal in ITA 1469/Del/2022 for A.Y. 2013-14 dated 01.02.2023 and the Tribunal had deleted the addition made u/s. 68 of the Act. In fact in this order there is a categorical finding that their lender companies had received monies from Tyagi Portfolio Management Ltd. In the instant case before us also the lender companies had received monies from M/s. Tyagi Portfolio Management Ltd.

7. Further we find that the co-ordinate bench of Delhi Tribunal in the case of *Flourish Builders & Developers Pvt. Ltd. vs DCIT reported in 103 taxmann.com 72*, under identical circumstances had held that the loan transactions received from M/s. I. Tech Insurance Brokers P Ltd. and Ms/ Tyagi Portfolio Management Ltd. to be genuine, among other companies.

8. In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, we have no hesitation to hold that the loans received from two lender companies amounting to Rs. 3,25,00,000/- cannot be treated as accommodation entry and correspondingly the addition made u/s. 68 of the Act thereon is hereby directed to be deleted. Since the loan of Rs 3,25,00,000/- is treated as genuine, there is no scope for sustenance of the addition made towards commission expenditure of Rs 3,25,000/- u/s 69C of the Act and accordingly, the same is also hereby directed to be deleted.

9. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 30/10/2023.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

**Sd/-  
(M.BALAGANESH)  
ACCOUNTANT MEMBER**

Delhi; Dated 30/10/2023

NV

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Delhi.
4. CIT
5. DR, ITAT, Delhi
6. Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar)  
ITAT, Delhi