

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA
BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.1223/Kol/2023
Assessment Year: 2021-22**

Pawan Kumar Bansal 35, Dr. Abani Dutta Road, Howrah-711106. (PAN: ADXPB3403A)	Vs.	Assessing Officer, Assessment Unit, Income Tax Department.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Giridhar Dhelia, FCA

Respondent by : Shri P. P. Barman, Addl. CIT, Sr. DR.

Date of Hearing : 18.01.2024

Date of Pronouncement : 21.02.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide Order No. ITBA/NFAC/S/250/2023-24/1056633820(1) dated 28.09.2023 passed against the assessment order by AO, Assessment Unit, Income Tax Department u/s.143(3) r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 26.12.2022 for AY 2021-22.

2. Grounds taken by the assessee are as under:

"-1. That the A.O erred in making addition of Rs.38,00,000/- as unexplained cash credit u/s. 68 of the Act. During the course of assessment proceedings, the assessee explained that the assessee received the said amount on account of unsecured loan and the said transaction was done through the proper banking channel. All the relevant documents such as bank statement, loan agreement and other relevant documents were produced before him. Thus, the addition made is unjustified and needs to be deleted.

2. That the AO was wrong in charging interest u/s. 234B and 234C of the Income Tax Act.

3. That the A.O was wrong in initiating penalty proceedings u/s 271AAC of the Income Tax Act.

4. That the assessee craves to leave, add, alter, amend or withdraw any ground or grounds of appeal before or at the time of hearing.”

3. Brief facts of the case are that assessee filed his return of income on 31.12.2021, reporting total income of Rs.1,07,54,180/-. Case of the assessee was selected for scrutiny assessment for the reason that assessee had received fund of Rs.38 lakh from VRC Infotech Private Limited (in short “VRC”) alleging that the said company has no real business activity, has no fixed assets and that the company was found not running any business at its registered premises. Assessment was completed u/s. 143(3) determining the total Income at Rs.1,45,54,180/-, considering the said loan transaction as bogus and unexplained cash credit u/s. 68 of the Act.

3.1. Assessee had taken unsecured loan of Rs 38 lakhs during the year under consideration from VRC which according to ld. AO was identified as a shell company of the entry provider. Ld. AO had issued notice u/s. 133(6) to VRC for verification and genuineness of the unsecured loan but no compliance was made by the said company which led the Ld. AO to draw an adverse conclusion by holding it as a shell company which has nominal existence. Before the Ld. CIT(A,) assessee has strongly contested that addition had been made merely on the basis of vague assumptions. Unsecured loan taken by the assessee has been duly recorded in its books of account which has been received through proper banking. In this respect copy of bank statement highlighting the transactions were placed on record. According to the assessee, it was an interest bearing fund on which interest has been charged and paid by the assessee after deducting tax at source. Assessee had duly deposited the said TDS with the government and reported it in the TDS return. The assessee also had submitted all the required details and documents as and when called

for in support of the said loan transaction which included MCA Master Data which demonstrates the active profile of the company. Copy of PAN of VRC was also furnished. Copy of ITR acknowledgment for AY 2021-22 as well as duly audited balance sheet and its relevant schedules and annexures, copy of loan confirmation letter was also furnished. Assessee also pointed out that a loan agreement was entered into between the assessee and the lender which was also placed on record.

3.2. Importantly, assessee also submitted that the impugned loan had been repaid for which also a copy of bank statement showing the repayment and a copy of loan confirmation for the same was placed on record. Assessee had repaid the entire loan including interest after deducting tax at source by 02.05.2022 and had requested for the closure of loan account

4. We have perused the audited financial statements including the Directors report and the audit report and take note of certain financial highlights of the lender company, which is tabulated as under:

Financial Highlights:

Particulars	Year ended 31 st March 2021	Year ended 31 st March 2020
Turnover	99,37,773	55,52,609
Profit/(Loss) before taxation	16,65,241	11,24,178
Less: Tax Expense	4,32,960	2,92,290
Profit/ (Loss) after tax	12,32,281	831888
Add: Balance b / f from previous year	11,54,050	3,22,162
Balance Profit/(Loss) c/f to the next year	23,86,331	11,54,050

4.1. From the ITR acknowledgment of the lender company, it is noted that the total income as well as the book profit under MAT is reported at Rs.16,65,241/- for AY 2021-22. We also take note of the details of repayment of loan made by the assessee along with interest and TDS which is extracted below :

Receipt Amount	Receipt Date	Paid Amount	Paid Date
22,00,000.00	16.09.2020	1,67,823.00	24.01.2022
16,00,000.00	24.09.2000	20,00,000.00	26.04.2022
		21,07,800.00	02.05.2022

4.2. Considering the over all facts of the case and documentary evidences placed on record, we find that assessee took a loan from VRC. It is undisputed that the said loan is interest bearing loan which has been taken through normal banking channel and has also been repaid along with interest and TDS through proper banking channel. All the documentary evidences are explained which were placed before the authorities below. There is no discrepancy which has been pointed out by any of the authorities below in respect of any of the documentary evidence placed on record. Without pointing out any discrepancy in the documents placed on record and without undertaking any active steps to conduct appropriate enquiry and examination, ld. CIT(A) has in a casual way stated that proper evidence furnished by the assessee is of no consequence. The lender has reported its income in the return filed and its financial highlights extracted above have also not been disputed. Considering all these stated facts and documentary details, we do not find any reason to sustain the addition made by the Ld. AO. We accordingly, delete the addition of Rs.38 lakhs made u/s. 68 and allow the ground taken by the assessee in this regard.

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

Order is pronounced in the open court on 21st February, 2024

Sd/-
(Rajpal Yadav)
Vice President

Sd/-
(Girish Agrawal)
Accountant Member

Dated:21st February, 2024

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. CIT(A), NFAC, Delhi
 4. CIT
 5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata