

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

Before Sh. C. N. Prasad, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 2488/Del/2023 : Asstt. Year: 2018-19

Subramaniam Ashok Kumar, 72, Mudali Thottam, Veerappanchatram, S.O. Erode, Erode, Tamil Nadu-638004	Vs	ACIT, Central Circle-31, New Delhi
(ASSESSEE)		(RESPONDENT)
PAN No. AFVPA2246N		

ITA No. 2739/Del/2023 : Asstt. Year: 2018-19

DCIT, Central Circle-19, New Delhi	Vs	Subramaniam Ashok Kumar, 72, Mudali Thottam, Veerappanchatram, S.O. Erode, Erode, Tamil Nadu-638004
(ASSESSEE)		(RESPONDENT)
PAN No. AFVPA2246N		

CO No. 140/Del/2023 : Asstt. Year: 2018-19

Subramaniam Ashok Kumar, 72, Mudali Thottam, Veerappanchatram, S.O. Erode, Erode, Tamil Nadu-638004	Vs	DCIT, Central Circle-19, New Delhi
(ASSESSEE)		(RESPONDENT)
PAN No. AFVPA2246N		

Assessee by : Sh. Harshit Srivastava, CA &

Sh. Anil Sethi, CA

Revenue by : Sh. Amit Shukla, Sr. DR

Date of Hearing: 24.01.2024

Date of Pronouncement: 15.03.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals and Cross Objection have been filed by the assessee and the Revenue against the order of Id. CIT(A)-30, New Delhi dated 06.07.2023

2. In ITA No. 2739/Del/2023, following tangible grounds have been raised by the Revenue:

"1. Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the addition made u/s 68 of the I.T. Act, 1961 of Rs. 2,18,50,000/- on account of unsecured loan?"

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4. Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred deleting the disallowance of Rs. 15,18,128/- on account of Interest paid on unsecured loan as per provisions of section 36(1)(iii) of the Income-tax Act?"

3. In ITA No. 2488/Del/2023, following tangible grounds have been raised by the assessee:

"1. The Id. CIT(A) has erred in law and facts in sustaining the addition of Rs.20,00,000/- made by the AO u/s 68 of the Income Tax Act, 1961.

4. The assessee, is the proprietor of M/s Ashok Enterprises is engaged primarily in the business of civil construction and having salary income, filed his return of income declaring total Income of Rs. 5,32,11,260/-.

5. The return of the assessee was subsequently selected for scrutiny in CASS on the aforesaid issues of

- (i) Unsecured Loans,
- (ii) ICDS Compliance and adjustment and
- (iii) Details of assets and liabilities.

6. During the year, the assessee received unsecured loan of Rs. Rs. 13,85,15,386/- and paid interest of Rs.21,22,252/- during the

relevant previous year 2017-18 on the said unsecured loan as per the following table:

SL	Name	PAM	Opening Balance	Accepted during the year	Repaid during the year	Closing Balance	Interest paid
1	Concrete Solutions	AAKFC3000G	0	21000000	0	21000000	0
2	PHS infratech Ltd.	AACCF7431K	0	20762443	0	20762443	0
3	Fluid Handling Systems	AAAPU6249F	0	17538515	0	17538515	0
4	Jeganathan & Co.	ACGPJ3584L	0	18500000	0	18500000	0
5	Kalaiselvi & Co	BKWPK6092B	0	16000000	0	16000000	0
6	P.K. Duraisamy	AADHD7S99E	0	4000000	2000	3998000	0
7	Margadarsi Chits Pvt. Ltd.		0	3114810	0	3114810	0
				1749616	0	1749618	0
8	Magnum Investment	AAQFM2210C	0	1000000	0	1000000	0
9	Meena K. Sakariya	AAJPM9821C	0	2500000	1015000	1485000	187500
10	Metal Impex	AAMFM4856G		2500000	1015000	1485000	187500
11	Nakoda Traders	AAMFN1767F		2500000	1015000	1485000	187500
12	Nishank Sakariya	AEFPN8248A	0	2500000	1015000	1485000	187500
13	Ramalingam Kumarsamy	AJNPR1672H	0	3260030	0	3260000	0
14	Pushp Enterprises	AAUFP3934G	0	1250000	507500	742500	93750
15	Rudra Securities and Capital Ltd	AACCR2292Q	0	2350000	1201945	1148052	205628
16	Sidharth. S	CPQPS7017L	0	2500000	1015000	1485000	187500
17	Arulmozhiselvi R	A4GPA1785P	0	4740000	0	4740000	236124
18	Bhanu A. Shah	AFSPB9673Q	0	1250000	507500	742500	93750
19	Dhanasekar C	AEWPQ6845E	0	2500000	0	2500000	150000
20	Keerthana Ramalingam	BZKPR2966N	0	4500000	0	4500000	219000
21	Kishone Kumar HUF	AAKPK6068J	0	2500000	1015000	1485000	187500
			0	138515386	8	130206438	2122262

7. Out of the 21 lenders in above Table, the assessee could not furnish documentary evidences including bank statement, or any document to show the sources of income or the capacity of lenders to lend money and thereby establish genuineness of transaction and creditworthiness of the following lender.

8. The details of all such lenders from whom the assessee has accepted unsecured loan during the financial year 2017-18, along with the details of repayment of loan and interest paid to such lenders during the relevant financial year, but could not furnish documentary evidence to establish genuineness of transaction and creditworthiness of the lenders, are furnished in the following table:

SL	Name	PAM	Opening Balance	Accepted during the year	Repaid during the year	Closing Balance	Interest paid
1	P.K. Duraisamy	AADHD7S99E	0	4000000	2000	3998000	0
2	Meena K. Sakariya	AAJPM9821C	0	2500000	1015000	1485000	187500
3	Metal Impex	AAMFM4856G		2500000	1015000	1485000	187500
4	Nakoda Traders	AAMFN1767F		2500000	1015000	1485000	187500
5	Nishank Sakariya	AEFPN8248A	0	2500000	1015000	1485000	187500
6	Pushp Enterprises	AAUFP3934G	0	1250000	507500	742500	93750
7	Rudra Securities and Capital Ltd	AACCR2292Q	0	2350000	1201945	1148052	205628
8	Sidharth. S	CPQPS7017L	0	2500000	1015000	1485000	187500
9	Bhanu A. Shah	AFSPB9673Q	0	1250000	507500	742500	93750
10	Kishone Kumar HUF	AAKPK6068J	0	2500000	1015000	1485000	187500
			0	138515386	8	130206438	2122262

9. The assessee has furnished the PAN & address of the lenders, copy of loan confirmation from lenders and his own bank

statements in respect of unsecured loans accepted from the lenders before the Assessing Officer. The Assessing Officer held that the assessee did not furnish documentary evidences including the bank statement of lenders to prove genuineness of loan transactions and creditworthiness of the lenders for unsecured loan accepted by him during the financial year 2017-18 amounting Rs. 2,38,50,000/- in spite of several opportunities offered to him. Hence, the Assessing Officer held that the assessee has failed to discharge his onus to establish by cogent evidence the genuineness of the loan transactions and creditworthiness of the lenders and thereby to explain the nature and source of the loan amounting Rs.2,38,50,000/- credited in the books of account of the assessee as required under the provisions of Section 68 of the Act and hence treated amount as cash credit u/s 68 of the Income Tax Act, 1961. While making the addition, the AO relied on the following case laws:

- *In Nanak Chandra Laxman Das vs. CIT, the Hon'ble Allahabad High Court has taken the view that,*

"Where any sum is found credited in the books of the assessee, the initial onus is on the assessee to offer an explanation of the nature and source of a cash credit. If the explanation is not found satisfactory or reasonable, the Income-tax Officer can treat such money as the assessee's income from undisclosed sources. It is not necessary for the Income-tax Officer to locate the exact source of the credits. The assessee can prove the genuineness of the credits by establishing from some plausible evidence the identity of the creditor and his creditworthiness."

- *Govindarajulu Mudaliar vs. CIT (AIR 1959 SC 248, 1958 34 ITR 807 SC)*, the Hon'ble Supreme Court came to the conclusion that,

"There is ample authority for the position that where an assessee fails to prove satisfactorily the source and nature of certain amount of cash received during the accounting year, the Income-tax Officer is entitled to draw the inference that the receipt are of an assessable nature."
- *In Kale Khan Mohammad Hanif vs. Commissioner of Income-tax*, the Hon'ble Supreme Court, in answering the question whether the burden of proving the source of the cash credit is on the assessee observed that:

It is well established that the onus of proving the source of a sum of money found to have been received by the assessee is on him. If he disputes liability for tax it is for him to show either that the receipt was not income or that if it was, it was exempt from taxation under the provisions of the Act. In the absence of such proof the Income-tax Officer is entitled to treat to as taxable income.

The language of section 68 shows that it is general in nature and applies to all credit entries in whomsoever name they may stand, that is, whether in the name of the assessee or a third party. This section has, therefore, removed the distinction which was drawn in some decisions between the credits held in the name of the assessee and those held in the name of a third party. Under Section 68 now the assessee has to prove that such third party was in a position to lend such sums and that he did, in fact, so lend to the assessee in order to satisfy the Income-tax Officer that the credits shown in the account books were genuine. This section has laid the onus of proof on the assessee.

- *In Siddharth Export Vs. ACIT (Delhi High Court):*

The issue under consideration is whether AO is correct in treating unsecured loan received by assessee as unexplained credit under section 68? In the present case, the assessee received an unsecured loan of Rs. 26 lacs through three cheques issued by Ms. Jasmine Kochhar Kapoor, a citizen of GBR (United Kingdom). AO treated unsecured loan received by assessee as unexplained credit under section 68. Tribunal in appellate proceedings confirmed addition made by AO on the ground that assessee failed to prove creditworthiness of lenders and genuineness of concerned loan transactions. Assessee challenged this by way of appeal filed under section 260A before High Court pleading that on filing of bank statement and PAN details and confirmation, burden stood discharged and it shifted on to the Revenue. The High Court, states that creditworthiness of lender could not be said to be proved merely on the strength of bank statement. Assessee did not produce income-tax return of the lender or any confirmation. The purported confirmation had been found to be only a copy of unsigned account of creditor. The source of funds had also not been explained. Furthermore, stand of assessee that since alleged transaction was made through normal banking channels, it was sufficient to prove genuineness of the transaction, could not be accepted. Thus, the credit worthiness and the genuineness of the transaction cannot be said to have been proved so as to shift the onus on the revenue. Hence HC do not find any infirmity in the impugned order. Therefore, the present appeal filed by assessee is dismissed.

- *The Hon'ble Supreme Court of India, in the case Principal Commissioner of Income Tax Vs. Nra Iron And Steel Pvt. Ltd. on 5th March, 2019 has discussed and observed as follows:*

"8.1. The issue which arises for determination is whether the Respondent/Assessee had discharged the primary onus to establish the genuineness of the transaction required under Section 68 of the said Act. Section 68 of the I.T. Act (prior to the Finance Act, 2012) read as follows: 68. Cash credits- Where any sum is found credited in the book of an Assessee maintained for any previous year, and the Assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the Assessee of that previous year (emphasis supplied) The use of the words any sum found credited in the books in Section 68 of the Act indicates that the section is widely worded, and includes investments made by the introduction of share capital or share premium.

8.2. As per settled law, the initial onus is on the Assessee to establish by cogent evidence the genuineness of the transaction, and credit-worthiness of the investors under Section 68 of the Act. The assessee is expected to establish to the satisfaction of the Assessing Officer:

Proof of Identity of the creditors: CIT v. Precision Finance Pvt. Ltd. (1994) 208 ITR 465 (Cat) Capacity of creditors to advance money: and Genuineness of transaction This Court in the land mark case of Kale Khan Mohammad Hanif v. CIT-3 and, Roshan Di Hatti v. CIT-4 laid down that the onus of proving the source of a sum of money found to have been received by an assessee is on the assessee. Once the assessee has submitted the documents relating to identity, genuineness of the transaction, and credit-worthiness, then the AO must conduct an inquiry, and call for more details before invoking Section 68. If the Assessee is not able to provide a satisfactory explanation of the nature and

source, of the investments made, it is open to the Revenue to hold that it is the income of the assessee, and there would be no further burden on the revenue to show that the income is from any particular source.

8.3. With respect to the issue of genuineness of transaction, it is for the assessee to prove by cogent and credible evidence, that the investments made in share capital are genuine borrowings, since the facts are exclusively within the assessee's knowledge.

- *The Hon'ble Delhi High Court in CIT v. Oasis Hospitalities Pvt. Ltd. [1963] 50 ITR 1 (SC) [1977] 107 ITR (SC), held that:*

The initial onus is upon the assessee to establish three things necessary to obviate the mischief of Section 68. Those are: (i) identity of the investors; (ii) their creditworthiness / investments; and (iii) genuineness of the transaction. Only when, these three ingredients are established prima facie, the department is required to undertake further exercise. It has been held that merely proving the identity of the investors does not discharge the onus of the assessee, if the capacity or creditworthiness has not been established. In Shankar Ghosh v. ITO 6, the assessee failed to prove the financial capacity of the person from whom he had allegedly taken the loan. The loan amount was rightly held to be the assessee's own undisclosed income.

"11. The principles which emerge where sums of money are credited as Share Capital/Premium are: i. The assessee is under a legal obligation to prove the genuineness of the transaction, the identity of the creditors, and credit-worthiness of the investors who, should have the financial capacity to make the investment in question, to the satisfaction of the AO, so as to discharge the primary onus. (2007) 158 Taxman 440 [2008] 307 ITR 334"

"14. The practice of conversion of un-accounted money through the cloak of Share Capital/Premium must be subjected to careful scrutiny. This would be particularly so in the case of private placement of shares, where a higher onus is required to be placed on the Assessee since the information is within the personal knowledge of the Assessee. The Assessee is under a legal obligation to prove the receipt of share capital/premium to the satisfaction of the AO, failure of which, would justify addition of the said amount to the income of the Assessee."

10. Aggrieved, the assessee filed appeal before the Id. CIT(A).

11. The Id. CIT(A) deleted the addition to the extent of Rs.2,18,50,000/- and confirmed Rs. 20,00,000/- after admitting the additional evidences, getting the remand report and examining the rebuttal of the assessee. Consequently, both the parties filed appeal before us. With regard to the issue of the unsecured loans, the examination of the Id. CIT(A) is being mentioned below:

Sl. NO.	Name of Lender	PAN	Loan accepted during the year	Comments/Remarks given by Ld. Assessing Officer as per Remand Report dated 03.01.2023	Appellant's Response/Rebuttal	My observations
1.	PK Duraisami	ACRPD1392F	40,00,000/-	The assessee submitted the ITRs, confirmation and bank statement of the lender. It is observed that partial bank statements of account no.(916020042980 409) have been submitted. This	It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity credit worthiness and source of such credit is not explained by Ld.	It is observed that immediately before the payment of unsecured loan of Rs. 10,00,000/- each on 01.12.2017 and 10.01.2018 cash of equivalent

				<p>includes the period from 04.04/2017 to 04/04/2017, 01/12/2017 to 12/12/2017 and 11/01/2018 to 11/01/2018. On perusal of account statement submitted, it is seen that source of amounts of Rs. 10,00,000 and Rs. 10,00,000 transferred to M / s Ashok Enterprises on 01.12.2017 and 11.01.2018 respectively are cash deposits done on the same day. Hence, the real source of these loans appear to be cash deposited and then passed as loan entry. Therefore, the creditworthiness of the lender and genuineness of the transactions are dubious and flow of funds prove that it is the cash deposited (that remains unexplained) which is transferred. Hence, genuineness of the transactions could not be established. Even in the third case, where amounts of Rs. 20,00,000/- has been transferred on 04.04.2017, source</p>	<p>assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested. Without prejudice to the above, the appellant hereby encloses the undertaking given by the lender that the said deposits made in his bank accounts were from the declared source of income and was duly recorded in his regular books of account and therefore, the source of cash deposited in his bank account may kindly be verified. Further, it is also to be noted that the lender is a businessman maintaining his regular books of account which have been audited by the Independent Chartered Accountant during the said assessment year. The copy of such audited balance sheet alongwith the detailed computation of income and ITR is being enclosed</p>	<p>amount was deposited by the lender and the funds were transferred in the bank account of the appellant. The appellant failed to submit the evidence provided ample opportunity to submit the evidence during the remand/ appellate proceedings but the source of cash deposits could not be explained. In absence of any explanation, it cannot be presumed that, the cash deposits of Rs 20 lakhs which was later transferred to the appellant was accounted / declared money. Hence it is considered unaccounted income of the appellant routed through his relative and the addition made by the AO to that extent is sustained. Remaining loan of Rs 20 lakhs given by Mr.</p>
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				<p>of Rs. 99,00,000/- deposited has to be ascertained. It can be seen that more than 95,00,000/- has been transferred on the same day it has been received.</p> <p>These types of transactions, further cast doubt on the genuineness of the transaction and is commonly used in such accommodation entry cases. Further, it may be questioned that why partial bank.</p>	<p>herewith for your kind perusal and ready reference. regarding the source of cash deposits. It is further noted that the lender is close relative of the appellant hence collection and submission of evidence of source for the cash deposits was not difficult. The appellant was</p>	<p>Duraisami is accepted as they were paid through banking channel. The appellant has submitted financial statement and ITR of the lender to prove the creditworthiness of the appellant. There is no evidence on record to suggest that the appellant has taken accommodation entry from the said lender or the lender is an accommodation entry provider. Accordingly, loan of Rs 20 lakhs received through banking channel is accepted as genuine.</p>
2.	Meena K. Sakariya	AAJPM9821 C	25,00,000/-	<p>The assessee has submitted ledger, PAN, Bank Statement of the lender and ITR (AY 2017-18), of the lender. ITR - 1 has been submitted for AY 2017- 18 but the case of the assessee pertains to AY 2018- 19. On perusal of the bank statement</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based on suspicion. Further, there is no requirement to share the ITR for the same assessment year for which the assessment pertains. However, the appellant</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation for the lender, banks statements of the lender to</p>

				<p>submitted, which is for the period 01/04/2017 to 31/03/2018, it is seen that there are many credit/ debit entries and assessee is a non-filer by the given year.</p> <p>Therefore, submission of ITR of AY 2017-18 whereas transaction is of AY 2018-19, where assessee is a non-filer, cast a doubt on the genuineness of the lender.</p> <p>Further, even for AY 2017-18, the returned income is around Rs. 40 lakhs and in FY 2017-18 (for which a/c has been submitted) assessee has transferred funds of more than 5 crores during the year.</p>	<p>hereby resubmits the ITR of said lender for the A.Y. 20.18-19 as well. However, the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 as well. From the perusal of ITR of relevant assessment year, your honour may find that the total declared income of the appellant is in the tune of Rs. 99.68 Lacs which is much more than the amount of loan given to the appellant worth Rs. 25,00,000.</p> <p>2. Further, the doubt of the Id. assessing officer that the amount of income declared by the appellant for the AY 2017-18 worth Rs. 40,00,000/- is not in line with the amount of fund transferred in his bank account for more than 5 crores during the said year, is mere a surmise / suspicion without having any base. It may be noted that an income of any person cannot be judged based on only turnover or money in his bank</p>	<p>explain the loan taken by it from Ms Meena Sakaria. On perusal, I find that the appellant has satisfactorily explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction. Therefore, the addition made u/s 68 is not sustainable.</p>
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					<p>account for many reasons. Therefore, the same may not be considered.</p> <p>It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity credit worthiness and source of such credit is not explained by the assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested.</p>	
3.	Metal Impex	AAMFM4856 G	25,00,000/-	<p>The assessee submitted the confirmation and partial bank statement (01.11.2017 to 23.11.2017) of the lender. The assessee did not submit the ITR for AY 2018-19 filed by the lender, whereas as per the bank statement of the lender, it is seen that transaction of more than Rs 19,04,11,679/- has been done only in 23 days of November. It is reiterated that</p>	<p>It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity credit worthiness and source of such credit is not explained by the assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested.</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation, banks statements to explain the loan taken by it from Ms Metal Impex On perusal, I find that the appellant has satisfactorily explained the identity and</p>

				<p>such accounts are widely used to provide accommodation entries where debit / credit transaction occur simultaneously and ITR remains unfiled even. Therefore, the genuineness and creditworthiness of the lender M/s Metal Impex could not be established.</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based on suspicion. Further, there is no requirement to share the ITR for the same assessment year for which the assessment pertains. However, the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 as well. From the perusal of ITR of relevant assessment year, your honour may find that the total declared income of the appellant is in the tune of Rs. 1.40 Crores which is much more than the amount of loan given to the appellant worth Rs. 25,00,000.</p>	<p>creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction. The remarks of the Ld AO that the account of the lender had huge transaction in short span of time therefore could have been used for the purposes of accommodation, is not based on any facts or investigation but surmises and conjectures, which cannot be accepted for sustaining the addition. Therefore, the addition made u/s 68 is not sustainable.</p>
4.	Nakoda Traders	AAMFN1767 F	25,00,000/-	<p>The assessee submitted the confirmation of the lender. On perusal of the details, it is observed that the assessee did not submit the ITR and bank statements of the relevant years. Further, it is seen that a ledger has been submitted where it has been</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based on suspicion. Further, there is no requirement to share the ITR for the same assessment year for which the assessment pertains. However,</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation for the lender, bank statement of the lender to</p>

				<p>shown that interest has been received but no supporting document link bank statements has been shown. And as no ITR submitted, hence such ledgers appear to have less relevance as the interest income in such cases are never taxed. In the absence of supporting documents, the genuineness and creditworthiness of the lender M/s Nakoda - Traders could not be established.</p>	<p>the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 as well. It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act identity credit worthiness and source of such credit is not explained by the assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested. However, the bank statement of this lender is being attached herewith for your kind perusal and ready reference.</p>	<p>explain the loan taken by it. I find that the appellant has satisfactorily explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction. Therefore, the addition made u/s 68 is not sustainable.</p>
5.	Nishant Sakariya	AEFPN8248 A	25,00,000/-	<p>The assessee submitted the ITR (AY 2017-18), confirmation and bank statements (for 1 day only) of the lender.</p> <p>ITR of AY 2018-19 is not submitted, hence it appears that assessee is a non-filer for the relevant year.</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based on suspicion.</p> <p>Further, there is no requirement to share the ITR for the same assessment year for which' the</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation for the lender, banks</p>

				<p>Further, bank statement of the lender for the complete year FY 2018-19 is not available on record and submitted part is not even legible.</p> <p>As per ITRs of previous year, lender may be considered to have creditworthiness but in the absence of supporting documents the genuineness of the lender - M/s Nishank Sakariya could not be established.</p>	<p>assessment ertains. However, the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 as well.</p> <p>From the perusal of ITR of relevant assessment year, your honour may find that the total declared income of the appellant is in the tune of Rs. 4.92 crores which is much more than the amount of loan given to the appellant worth Rs. 25,00,000.</p> <p>It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity credit worthiness and source of such credit is not explained by the assessee.</p> <p>However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested.</p> <p>However, the bank statement of this</p>	<p>statements of the lender to explain the loan taken by it. On perusal, I find that the appellant has satisfactorily, explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction.</p> <p>Therefore, the addition made u/s 68 is not sustainable.</p>
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					lender is being attached herewith for your kind perusal and ready reference.	
6.	Pushp Enterprises	AAUFP3934 G	12,50,000/-	<p>The assessee submitted a confirmation, which it appears to have been claimed to be of lender. ITR of AY 2018-19 is not submitted, hence it appears that assessee is a non-filer for the relevant year.</p> <p>Further, it is seen that a ledger has been submitted where it has been shown that interest has been received but no supporting document like bank statement has been shown. And as no ITR submitted, hence, such ledgers appear to have less relevance as the interest income in such cases are never taxed.</p> <p>The assessee did not submit the ITR and bank statement of the relevant years.</p> <p>Therefore, the genuineness of the transaction as well as creditworthiness of the lender M/s Pushp Enterprises could not be</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based on suspicion. Further, there is no requirement pertains. However, the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 as well. From the perusal of ITR being attached herewith taxable income of the said lender was in the tune of Rs.2,1 lacs during the said assessment year. Therefore, the doubt on the credit worthiness of said lender is unwarranted and may kindly be accepted.</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation for the lender, banks statements of the lender to explain the loan taken by it. On perusal, I find that the appellant has satisfactorily explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction. Therefore, the addition made u/s 68 is not sustainable.</p>

				established.		
7.	Rudra Securities	AACCR2292 Q	25,00,000/ -	<p>The assessee submitted a confirmation whereas no ITR, bank statement has been submitted. ITR of AY 2018-19 is not submitted, hence it appears that assessee is a non-filer for the relevant year.</p> <p>Further, it is seen that a ledger has been submitted where it has been shown that interest has been received but no Supporting document like bank statement has been shown.</p> <p>And as no ITR submitted, hence such ledgers appear to have less relevance as the interest income in such cases are never taxed.</p> <p>The assessee did not submit the ITR and bank statement of the relevant years. Therefore, the genuineness of the transaction as well as creditworthiness of the lender M/s Rudra Securities and Capital Ltd could not be established.</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based on suspicion. Further, there is no requirement to share the ITR for the same assessment year for which the assessment pertains. However, the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 as well. On perusal of said ITR, your honour may find that the said lender company had declared taxable income in the said assessment year was in the tune of Rs. 48 lacs. Therefore, doubt on the creditworthiness of said lender is absolutely unwarranted in this case.</p> <p>It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity credit Worthiness and</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused.</p> <p>The appellant has submitted PAN, ITR, confirmation for the lender, banks statements of the lender to explain the loan taken by it. On perusal, I find that the appellant has satisfactorily explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction. Therefore, the addition made u/s 68 is not sustainable.</p>

					<p>source of such credit is not explained by the assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested.</p> <p>However, the bank statement of this lender is being attached herewith for your kind perusal and ready reference.</p>	
8.	Sidharth S	CPQPS7017 L	25,00,000/ -	<p>The assessee submitted the ITR (AY 2017-18, confirmation and bank statement (of 1 day only) of the lender.</p> <p>The assessee did not submit the ITR for the AY 2018-19. In the wake of loan of Rs.25 lakhs and one returned income of total GTI of 14 lakhs, creditworthiness looks dubious.</p> <p>Further, bank statement of the lender for the complete year is not available on record. Also, the closing balance as per ledger submitted by the assessee and closing balance declared by the lender Sidharth. S does not match.</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based. on suspicion. Further, there is no requirement to share the ITR for the same assessment year for which the assessment pertains. However, the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 showing the declared taxable income during the said assessment year in the tune of Rs. 26,29 Lacs. Therefore, the doubt on credit worthiness on the said lender is</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation for the lender, banks statements of the lender to explain the loan taken by it. On perusal, I find that the appellant has satisfactorily explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness</p>

				<p>Also, the source of Rs. 25,00,000/- loan appears to be mainly from Rs.20,00,000/- received a day back. It is reiterated that such accounts are widely used to provide accommodation entries where debit / credit transaction occur simultaneously and ITR remains unfiled even.</p> <p>Therefore, the genuineness of the transaction as well as creditworthiness of the lender M/s Sidharth. S could not be established.</p>	<p>absolutely unwarranted.</p> <p>It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity credit worthiness and source of such credit is not explained by the assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested.</p> <p>However, the bank statement of this lender is being attached herewith for your kind perusal and ready reference.</p>	<p>of the transaction.</p> <p>Therefore, the addition made u / s 68 is not sustainable.</p>
9.	Bhanu A. Shah	AFSPB9573 Q	12,50,000/-	<p>The assessee submitted a confirmation whereas no ITR, bank statements has been submitted. ITR of AY 2018-19 is not submitted, hence it appears that assessee is a non-filer for the relevant year. Further, it is seen that a ledger has been submitted where it has been shown that interest has been received</p>	<p>The Ld. Assessing Officer has casted a doubt on the credit worthiness of the lender which is purely based on suspicion. Further, there is no requirement to share the ITR for the same assessment year for which the assessment pertains. However, the appellant hereby resubmits the ITR of said</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation for the lender, banks statements of the lender to explain the loan taken by it. On</p>

				<p>but no supporting documents like bank statement has been shown. And as no ITR submitted, hence such ledgers appear to have less relevance as the interest income in such cases are never taxed. The assessee did not submit the ITR and bank statement of the relevant year. Therefore, the genuineness of the transaction as well as creditworthiness of the lender Bhanu A Shah could not be established.</p>	<p>lender for the A.Y. 2018-19 as well showing the declared taxable income during the said assessment year in the tune of Rs. 47.72 lacs which is much more than Rs. 12,50,000 taken as loan. Therefore, credit worthiness of the said lender cannot be doubted. It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity credit worthiness and source of such credit is not explained by the assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested.</p>	<p>perusal, I find that the appellant has satisfactorily explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction. Therefore, the addition made u/s 68 is not sustainable.</p>
10.	Kishore Kumar HUF	AAKPK6068 J	25,00,000/-	<p>The assessee submitted a confirmation whereas no ITR, bank statement has been submitted. ITR of AY 2018-19 is not submitted, hence it appears that assessee is a non-filer for the relevant year.</p>	<p>The Ld. Assessing Officer has casted a doubt on the creditworthiness of the lender which is purely based on suspicion. Further, there is no requirement to share the ITR for the same assessment year</p>	<p>The observations of the AO and the rejoinder of the appellant along with ITR of A.Y. 2018-19 have been perused. The appellant has submitted PAN, ITR, confirmation for</p>

				<p>Further, it is seen that a ledger has been submitted where it has been shown that: interest has been received but no supporting documents like bank statement has been shown. And as no ITR submitted, hence such ledgers appear to have less relevance as the interest income in such cases are never taxed. The assessee did not submit the ITR and bank statement of the relevant year. Therefore, the genuineness of the transaction as well as creditworthiness of the lender Kishore Kumar HUF could not be established.</p>	<p>for which the assessment pertains. However, the appellant hereby resubmits the ITR of said lender for the A.Y. 2018-19 as well showing the declared taxable income in the tune of Rs. 25.48 lacs during the said assessment year. Therefore, creditworthiness of said lender may not be questioned in this case. It is hereby being submitted that, the cash credit in the books of account can be termed as undisclosed cash credit u/s 68 of the Act only when the identity creditworthiness and source of such credit is not explained by the assessee. However, to show the source of source of such credit is required only in the case of a company in which the public is not substantially interested. However, the bank statement of this lender is being attached herewith for your kind perusal and ready reference.</p>	<p>the lender, banks statements of the lender to explain the loan taken by it. On perusal, I find that the appellant has satisfactorily explained the identity and creditworthiness of the lender. There is no material on record to doubt the genuineness of the transaction. Therefore, the addition made u/s 68 is not sustainable.</p>
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12. Having heard the arguments of both the parties, examined the amounts of the loan, remarks given by the AO in the original Assessment Order as well as in the Remand Report, rebuttal of the assessee on the Remand Order and the observations of the Id. CIT(A), we hold that no reason arises to interfere with the order of the Id. CIT(A). With regard to the loan of Rs.40,00,000/- received, we find that the said amount has been received from Mr. Duraisami and the Id. CIT(A) has accepted the loan of Rs.20,00,000/-. The Id. CIT(A), however, volte-faced on the issue of remaining Rs.20,00,000/- which we hereby reverse.

Interest Payment:

13. Interest payment being consequential to the loans received, the same is liable to be deleted owing to the adjudication on the issue of the unsecured loans.

14. In the result, the appeal of the Revenue is dismissed and the appeal & the Cross objection of the assessee is dismissed as infructuous.

Order Pronounced in the Open Court on 15/03/2024.

Sd/-
(C. N. Prasad)
Judicial Member

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated: 15/03/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR