

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No. 1942/Del/2023
(Assessment Year: 2018-19)**

ACIT, Central Circle, Ghaziabad (Appellant)	Vs.	Karanvir Bajaj, House No. 21, Sector-5, Raj Nagar, Ghaziabad (Respondent)
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PAN:BGWPB8463K

**CO No. 82/Del/2023
(In ITA No. 1942/Del/2023)
(Assessment Year: 2018-19)**

Karanvir Bajaj, House No. 21, Sector-5, Raj Nagar, Ghaziabad (Appellant)	Vs.	ACIT, Central Circle, Ghaziabad (Respondent)
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PAN:BGWPB8463K

Assessee by :	Shri Somil Agarwal, Adv
Revenue by:	Ms. Anu Krishna Aggarwal, CIT DR

Date of Hearing	13/05/2024
Date of pronouncement	22/05/2024

ORDER

PER M. BALAGANESH, A. M.:

1. This appeal in ITA No. 1942/Del/2023 is filed by the revenue and the cross objection No. 82/Del/2023 for A.Y. 2018-19 arises out of the order by Id CIT(A)-3, Noida in appeal No. CIT(A)-IV/KNP/11086/2017-18 dated 28.04.2023 (hereinafter referred to as Id CIT(A) in short) against the order of assessment passed u/s 143(3)/ 153A of the Income Tax Act, 1961 (hereinafter referred to

as Act) dated 16.06.2021 by the AO, DCIT, Central Circle, Ghaziabad (hereinafter referred to as Id. AO).

2. The revenue has raised the following grounds of appeal:-

1. On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 3,93,800/- being unexplained unsecured loan without considering the facts brought out in the assessment order.

2. On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 74,47,915/- made by the AO on account of unexplained income, without considering the facts brought out in the assessment order.

3. On facts and circumstances of the case and in law, the Ld. CIT(A) failed to consider the fact as elaborated in the assessment order that in spite of sufficient opportunities provided to the assessee, the assessee failed to furnish required details/documents. Therefore, in absence of documentary evidences, the AO was justified in making the aforesaid additions

4. That the appellant craves leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other."

3. We have heard the rival submissions and perused the material available on record. At the outset, we find that the issue in dispute raised by the revenue have been accepted by the Id AO in the remand report submitted before the Id CIT(A). The two additions that were made by the Id AO were in respect of treating unsecured loan received by the assessee as unexplained cash credit for want of submission of certain evidences connected with the lenders. These documents were indeed submitted by the assessee before the Id CIT(A) in the form of additional evidences which were duly admitted by the Id CIT(A) and a remand report from the Id. AO was called for. As stated earlier, the Id AO accepted the entire contentions of the assessee after due verification of the additional evidences submitted before him in the remand proceedings. The Id CIT(A) having taken cognizance of the remand report filed by the Id AO granted relief to the assessee by observing as under:-

"5.9 In the grounds of appeal no. (ii) & (ii)a), the appellant submits that the unsecured loan of Rs. 3,18,800/- has been taken from Sh. Umesh Kumar Bajaj [closing balance Rs. 13,66,800/- (-) opening balance of Rs. 10,48,000/-] and further unsecured loan of Rs. 75,000/- has been taken from Sh. Umesh Kumar Bajaj (HUF) [closing balance Rs. 3,50,000/- (-) opening balance of Rs. 2,75,000/-]. In the assessment order, Ld. AO has made addition of Rs. 3,93,800/- u/s 68 of IT Act on account of unsecured loan taken from these persons with an observation that the appellant was required to furnish complete names, addresses, PAN, ledger accounts and confirmations duly signed by the persons, from whom the appellant has received loans so that the identity, genuineness of transaction and creditworthiness of the lender may be proved, however the appellant failed to file requisite details/ documents in respect of unsecured loan amount of Rs 3,93,800/-.

On the other hand the appellant submits that no proper opportunities were provided to the appellant to furnish the required documents and even in show cause notice, no such addition was proposed to be made.

In the appellate proceedings, the appellant furnished copy of Bank Statements with a claim that the unsecured loan of Rs 3,93,800/- has been taken from Sh. Umesh Kumar Bajaj [closing balance Rs. 13,66,800/- (-) opening balance of Rs. 10,48,000/-] and further unsecured loan of Rs. 75,000/- has been taken from Sh. Umesh Kumar Bajaj (HUF) [closing balance Rs. 3,50,000/- (-) opening balance of Rs. 2,75,000/-] Ld. AR submits that these amounts are received through banking channel. The appellant has also filed copies of confirmed ledger accounts, ITRs and bank statements of these persons. Thus Ld. AR submits that the appellant has sufficiently discharged his onus. In the remand proceedings, Ld. AO has also verified the facts and he could not bring anything on record from which submission of appellant in the appellate proceeding may be controverted.

5.10 Looking to the facts and circumstances of the case, the addition of Rs. 3,93,800/- made on account of unsecured loan of Rs. 3,18,800/- taken from Sh. Umesh Kumar Bajaj [closing balance Rs 13,66,800/- (-) opening balance of Rs 10,48,000/-] and further unsecured loan of Rs. 75,000/- taken from Sh. Umesh Kumar Bajaj (HUF) [closing balance Rs. 3,50,000/- (-) opening balance of Rs. 2,75,000/-] is hereby deleted and relief is allowed to the appellant. All the related grounds of appeal are adjudicated accordingly

5.11 In the grounds of appeal no (iii) & (iii)a), Ld. AR submits that the appellant had taken a loan of Rs. 74 lacs from Bank of India from Account Number 711362610000023 which was in the name of the appellant and his brother Sh Abishek Bajaj. This amount was transferred to the various accounts of family members as under:-

Amount	Transfer to	Transfer Date
Rs. 33,00,000/-	Sh. Abhishek Bajaj	27.10.2017
Rs. 10,00,000/-	Mrs. Anu Bajaj	30.10.2017
Rs.15,00,000/-	M/s A.K. Beverages	30.10.2017
Rs. 8,00,000/-	M/s Bajaj Prime Fuels	03.11.2017

<i>Rs. 2,50,000/-</i>	<i>HPCL Retail</i>	<i>03.11.2017</i>
<i>Rs.5,50,000/-</i>	<i>M/s Bajaj Prime Fuels</i>	<i>03.11.2017</i>
<i>Total Rs. 74,00,000/-</i>		

Ld. AR submits that the amount of Rs. 33,00,000/- was transferred in the bank account Number of 711362610009037 of Bank of India, which was jointly held by appellant and his brother Sh. Abishek Bajaj and balance amount was transferred in other accounts from 27.10.2017 to 03.01.2017 as shown above. It is submission of Ld. AR that in this case the other account holder of the loan account was Sh. Abishek Bajaj, brother of the appellant, however, the entire loan amount was reflected in the books of the appellant. The said loan was taken to fund the various business entities of the family. All the transactions were duly recorded in the books of accounts of the respective family members / business entities filed during the course of assessment proceedings. Ld. AR submits that Ld. AO in total disregard of the documentary evidence filed in the assessment proceedings, made the addition u/s 68 of IT Act. In the Remand proceedings Ld. AO states that from the Bank loan statements it has been verified that amount of Rs. 74,47,915/- was outstanding as on 31.03.2018 in Bank of India Account Number - 711362610000023. Ld. AO concludes that from the additional evidences furnished by the appellant in the appellate proceedings, the contention of the appellant seems to be acceptable.

5.12 Looking to the facts and circumstances of the case, the addition of Rs. 74,47,915/- made on account of the loan taken from Bank of India Account Number 711362610000023 is well explained and hence the same is hereby deleted and relief is allowed to the appellant. All the related grounds of appeal are adjudicated accordingly

5.13 in the ground of appeal no. (iv), the appellant submits that the provisions of section 115BBE of IT Act have been wrongly invoked on the additions of Rs. 3,93,800/- and Rs. 74,47,915/- made u/s 68 of IT Act. Since these additions made u/s 68 of IT Act have been deleted, this ground of appeal becomes infructuous, hence the same needs no adjudication.)

4. Once the Id AO had accepted the stand of the assessee in the remand report, the Id. AO would be precluded from filing further appeal before the Tribunal as there could be no grievance left for the revenue. This view of ours is further fortified by the decision of the Hon'ble Madras High Court in the case of Smt B Jayalakshmi vs ACIT reported in 96 taxmann.com 486 (Mad HC). In view of the above, we do not find any infirmity in the order of the Id CIT(A). Accordingly, the grounds raised by the revenue are dismissed.

5. The Id AR submitted that cross objection preferred by the assessee are only supportive of the order of the Id CIT(A). Hence, the same is hereby dismissed as infructuous.

6. In the result, both the appeal of the revenue and cross objections of the assessee are dismissed.

Order pronounced in the open court on 22/05/2024.

-Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:22/05/2024
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi