

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

**BEFORE DR. B.R.R. KUMAR, ACCOUNTANT MEMBER  
AND  
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.115/Del/2024  
Assessment Year: 2016-17

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| <b>Narwal Finance Private Limited, House No.7, Sector-14, Huda Rohtak, Haryana -124001<br/>PAN No.AABCN8661Q</b> | <b>Vs.</b> | <b>Income Tax Officer<br/>Ward- 3<br/>Rohtak</b> |
| <b>(APPELLANT)</b>   |            | <b>(RESPONDENT)</b>                              |

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|---------------|--|
| Appellant by  | Sh. Gautam Swarup, Advocate<br>Sh. Ankur Das, Advocate |
| Respondent by | Sh. Anshul, SR. DR                                     |

|                        |            |
|------------------------|------------|
| Date of hearing:       | 16/05/2024 |
| Date of Pronouncement: | 06/06/2024 |

**ORDER**

**PER SUDHIR KUMAR, JM:**

This appeal by the assessee is directed against the order of the National Faceless Appeal Centre, [hereinafter referred to as "NFAC"], Delhi vide order dated 14.11.2023 pertaining to A.Y. 2016-17 and arises out of the assessment order dated 16.12.2018 passed by the Ld. Assessing Officer under section 143(3) of the Act, 1961 [hereinafter referred as 'the Act'].

2. Brief fact of the case is that the assessee has electronically filed the return of income on 14.09.2016 for the A.Y 2016-17 declaring total income of Rs.40350/-. The case was selected for scrutiny assessment through CASS. The notice under Section 143(2) of the Act dated 22.08.2017 was issued and served upon the assessee. The A.O found that assessee's company had raised the funds in form of the shares application money on account of capital introduced by the directors which have been received as unsecured loan far away from the persons of place of business of the Assessee. During the assessment proceedings the AO added Rs.75,00,000/- on account of unproved source of capital introduce by directors.

3. Aggrieved by the order of the A.O the assessee company has filed the appeal before the Ld. CIT(A). The Ld CIT(A) vide order dated 14-11-2023 has dismissed the appeal against which assessee has filed this appeal before us by raising the following grounds:-

1. *That the Order passed by the Ld. AO as well as the Ld. CIT(A) is bad in law and liable to be set aside.*

2. *That the Ld.CIT(A) have in view of the facts and circumstances of the case erred in law and on facts while confirming the addition of Rs.75 lakhs(Rupees Seventy Five Lakhs Only) made by the AO under section 68 of the Income Tax Act, 1961 notwithstanding the*

*fact that the assessee has discharged its burden of proof u/s 68 of the Act.*

3. *That the Ld. AO has erred in law and facts while initiating the penalty proceedings u/s. 271 (1) (c) of the Act.*

4. *That the Appellant craves your honours leave to add, alter, modify substitute and withdraw any of the grounds of appeal at any stage of appellant proceedings.*

4. The Ld. CIT(A) at para 6.5 in his order has observed as under :-

*“6.5 Due to non submission of documents which confirm the credit worthiness of the share applicants and that of the parties from whom funds were borrowed by the share applicants, the genuineness of the transactions are not proved. Hence, the addition is based on the failure of the appellant to discharge the burden cast upon it under Sec 68 of the Act and not on surmises and conjectures as averred by appellant. In the appellate proceedings no fresh facts have been brought on record by the appellant for discharging its onus. Therefore, the grounds of appeal nos 1 to 6 are not tenable and hence they fail.”*

5. Before us at the outset Ld. DR supported the order of the A.O and Ld CIT(A) submitted that required details were furnished by the assessee company in compliance of the notice. The A.O, therefore, for the reasons noted in the order made the addition. He submitted that Ld. CIT(A) thereafter for the reasons

noted in the order has dismissed the appeal. Therefore, he submitted that the order of A.O and CIT(A) be upheld.

6. Ld. Counsel for the assessee has submitted that assessee has provided all the details of the creditors to the A.O and discharged its initial burden. It is also submitted that Assessee Company has provided the details of the bank accountants, PAN numbers and other documents of the creditors.

7. Ld. Counsel relied on various judgments to support his contention which are as follows ;

*Orient Trading Co Ltd vs CIT(central) Calcutta 1962 SCC on Line Bom 175*

*CIT vs NRA Iron &Steel (P) Ltd (2019 ) 15 Scc page 529*

*CIT vs Steller Investment Ltd 2000SCCon line S C 35*

*CIT vs Taj Bore wells 2007 SCC Online Mad 1129*

8. In the case of CIT vs Diamond Products Ltd (2009)177 Taxman 331 Delhi the Hon'ble Delhi High Court held that Section 68 of the income Tax Act 1961-cash credits for A.Y.2002-03 whether once assessee has been able to establish that transaction with his creditors is genuine and creditors

identity and creditworthiness have been established, Assessing officer can examine source of source- Held, No-

9. We have heard the parties and perused the material available on record.

10. Perusal of the order of the CIT(A), it reveals that assessee company had given particulars of registration of the investing /applicant companies; confirmation from the share applicants, bank accounts details and payment made by bank accounts through account payee cheques. Assessee's company has discharged the burden as per the first proviso of the section 68 of the Act. Unsecured loan has been provided by the creditors namely Sh. Sunil Gupta, Ms Nirmala Bhardwaj and Shreyans Finlease Pvt Ltd to the assessee company through bank accounts. In the instant case the assessee had proved that the transactions were genuine. Hence, the AO cannot be permitted to examine the source of the source once the assessee has been able to establish that the transactions with the creditors were genuine and credit worthy.

11. From the above discussion appeal of the assessee company is liable to be allowed accordingly. The order passed by the Ld. CIT(A) and AO are set aside.

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

Order pronounced in the open court on 06.06.2024.

**Sd/-**  
**(DR. B R R KUMAR)**  
**ACCOUNTANT MEMBER**

\*NEHA, Sr. PS\*

Date:-06.06.2024

Copy forwarded to:

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

**Sd/-**  
**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI