

आयकर अपीलिय अधिकरण
दिल्ली पीठ " जी ", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अवधेश कुमार मिश्रा, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

आअसं. 3085/दिल्ली/2015 (नि. व. 2010-11)
ITA NO.3085/DEL/2015 (A.Y.2010-11)

Sidhant Homeware Promotors,
Plot No. 101, Sec-7, BHEL SIDCUL, Haridwar
Uttarakhand 249403
PAN: ABPFS9148B

..... अपीलार्थी/ Appellant

बनाम Vs.

Income Tax Officer,
Ward 2, D-28 & 29, Industrial Area, Haridwar,
Uttarakhand

..... प्रतिवादी/ Respondent

अपीलार्थी द्वारा/ Appellant by : Shri R Navneet Nair, Advocate
प्रतिवादीद्वारा/ Respondent by : Shri Anuj Garg, Sr. DR
सुनवाई की तिथि/ Date of hearing : 24/04/2024
घोषणा की तिथि/ Date of pronouncement : 10/06/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), Dehradun dated 27.02.2015, for the Assessment Year 2010-11.

2. The assessee in appeal has assailed the findings CIT(A) in upholding addition u/s. 68 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') in respect of following unsecured loans:

- | | | |
|----|-----------------|-------------|
| 1. | Brham Pal Singh | 7,50,000/- |
| 2. | Lekh Raj Singh | 13,00,000/- |
| 3. | Naresh Chauhan | 6,50,000/- |

3. Shri R Navneet Nair, appearing on behalf of the assessee submitted that the assessee is a partnership firm. During the period relevant to assessment year under appeal, the assessee had taken unsecured loans from various parties. The Assessing Officer (AO) made addition u/s. 68 of Act, in respect of all unsecured loans aggregating to 79,45,130/- .

4. Aggrieved by the assessment order dated 28.03.2013, the assessee carried the issue in appeal before the CIT(A). In First Appellate proceedings, the assessee furnished additional evidences to substantiate, genuineness and creditworthiness of the transactions and the lenders. The CIT(A) after examining additional evidences deleted addition in respect of all unsecured loans, except unsecured loans taken from Brham Pal Singh, Lekh Raj Singh and Naresh Chauhan. Though the assessee had furnished relevant documents to prove creditworthiness and identity of the aforesaid three lenders, the CIT(A) failed to appreciate the same. He submitted that the assessee had taken unsecured loans from related parties. After having discharged the onus of proving creditworthiness of the lenders, the assessee was not required to prove source of source. The assessee prayed for deleting addition u/s. 68 of the Act, upheld by the CIT(A).

5. Per contra, Shri Anuj Garg representing the Department vehemently supported the order of CIT(A) and prayed for dismissing appeal of the assessee. The Id. DR submitted that the assessee has failed to prove creditworthiness of three lenders qua which CIT(A) has confirmed the addition. The CIT(A) has deleted the addition made u/s. 68 of the Act by Assessing Officer, wherever, he was satisfied with the documents furnished by the assessee as additional evidence.

6. We have heard the submissions made by rival sides and have examined the orders of authorities below. The solitary issue raised by the assessee in appeal is with regard to addition made u/s.68 of the Act on account of unproved loans. The assessee had taken unsecured loans from various parties (12) aggregating to Rs. 79,45,130/-. Since, the assessee failed to provide relevant documents during assessment proceedings to prove genuineness of the transactions and creditworthiness of lenders, the AO made addition of the entire aforesaid amount. The assessee furnish additional evidences before the CIT(A) to prove genuineness of the transactions, identity and creditworthiness of the lenders. The additional evidences filed by assessee were admitted and remand report from the AO on the additional evidences filed by the assessee was sought. The AO failed to carry meaningful investigation and enquiries on the additional evidences filed by the assessee and squandered the opportunity by raising objections on admission of additional evidences. The CIT(A) after examining additional evidences granted substantial relief to the assessee by deleting additions made u/s. 68 of the Act. However, CIT(A) upheld addition in respect of three persons i.e. (i) Brham Pal Singh, (ii) Lekh Raj Singh and (iii) Naresh Chauhan.

7. The assessee in order to prove loan from Brham Pal Singh had furnished confirmations and copies of land records. It is an undisputed fact that Brham Pal Singh is owning agricultural land. He had also filed confirmations indicating loan advanced to the assessee. The reasoning given by CIT(A), to confirm the addition is only based on assumptions. We find no plausible reason to reject documents furnished by the lender, hence, the addition of Rs. 7,50,000/- in respect of unsecured loan from Brham Pal Singh is deleted.

8. In respect of unsecured loans from Lekh Raj Singh amounting to Rs. 13,00,000/-. The CIT(A) has confirmed the addition on the ground that he is not a man of means. In order to prove creditworthiness of Lekh Raj Singh, the assessee has furnished a copy of bank statement, confirmation letter, PAN and ITR's of Lekh Raj Singh for the last three years. The CIT(A) has raised suspicion about creditworthiness of Lekh Raj Singh on the comments of AR that some cash deposits were made in the bank account of lender prior to transaction of loan. It is an undisputed fact, that at the time of advancing loan, the lender was having sufficient bank balance. In the impugned assessment year, the Department cannot ask the assessee to prove source of source. Therefore, the addition of Rs. 13,00,000/- in respect of unsecured loans from Lekh Raj Singh is directed to be deleted.

9. In order to prove genuineness of unsecured loans from Naresh Chauhan amounting to Rs. 6,50,000/-, the assessee filed confirmations and copy of khatauni. As per the revenue records, Naresh Chauhan was having land less than one hectare in his name. The CIT(A) after examining the documents on record held that the lender was not having sufficient land to advance loan of Rs.

6,50,000/-. Thus, creditworthiness of lender was not proved. No material was brought before the Bench by the assessee to controvert the findings of CIT(A). Hence, the addition made in respect of Naresh Chauhan is confirmed.

10. In the result, appeal by the assessee is partly allowed.

Order pronounced in the open court on Monday the 10th day of June, 2024.

Sd/-

(AVDHESH KUMAR MISHRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली / Delhi, दिनांक/Dated 10/06/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि. , दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI