

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "H (SMC)" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SUNIL KUMAR SINGH (JUDICIAL MEMBER)**

**ITA No. 2901/MUM/2024
Assessment Year: 2012-13**

Income Tax Officer,
209, Aayakar Bhavan,
M.K. Road,
Mumbai-400020.

Appellant

Vs.

Shipra Developers Pvt. Ltd.,
G-2, Flat No. 101 A Wing,
Beach Square, Dr. A.B. Nair
Road, Juhu Vile Parele (W),
Mumbai-400049.

**PAN NO. AAICS 7124 E
Respondent**

Assessee by : Mr. Satish Mody
Revenue by : Mr. Asif Karmali, Sr. DR

Date of Hearing : 01/08/2024
Date of pronouncement : 19/08/2024

ORDER

PER OM PRAKASH KANT, AM

This appeal by the Revenue is directed against order dated 29.03.2024 passed by the Ld. Additional/ Joint Commissioner of Income-tax (Appeals), Thiruvananthapuram [in short 'the Ld. CIT(A)'] for assessment year 2012-13, raising following ground:



"Whether on facts and in the circumstances of the case and in law, the learned Addl./JCIT (A) erred in deletion the addition made on account unsecured loan as unexplained cash credits u/s 68 of the Income tax Act, 1961 without appreciating the fact that the assessee had failed to furnish satisfactory explanation with regard to the identity, creditworthiness of the parties with regard to the identity of the parties, sources thereof and genuineness of the transactions."

2. Briefly stated, facts of the case are that during the course of search action u/s 132 of Income-tax Act, 1961 (In short 'the Act') carried out at the premises of Shri Vipul Vidur Bhatt and his associates, Shri Bhatt admitted that he was an entry operator involved in providing bogus entries in the form of share capital and share premium etc. The Dy. Director of Income-tax (Inv.), Mumbai, who carried out search, informed the Assessing Officer that the assessee obtained accommodation entries from entities operated and managed by Shri Vipul Vidur Bhatt. On perusal of the information, the Assessing Officer found that assessee is one of the beneficiary obtained accommodation entries in financial year 2011-12 i.e. corresponding to assessment year under consideration, from following entities which were claimed to be managed by Shri Vipul Bhat :

Name of Bogus Entities	Name of Beneficiary	PAN	F.Y.	Amount
M/s Acute Consultancy Ltd.	M/s Shipra Developers Pvt. Ltd.	AAICS7124E	2011-12	700,000/-
Lunkad Textiles Pvt. Ltd.	M/s Shipra Developers Pvt. Ltd.	AAICS7124E	2011-12	611,688/-
P Saji Textiles Ltd.	M/s Shipra Developers Pvt. Ltd.	AAICS7124E	2011-12	511,200/-
Total				18,22,888/-



2.1 In view of the information, the Assessing Officer recorded reasons to believe that income escaped assessment and accordingly he issued notice u/s 148 Act dated 02.03.2017. During reassessment proceedings, the assessee submitted ledger account of the abovementioned parties along with the return of income, balance sheet and profit and loss account etc. The Assessing Officer has reproduced a copy of the ledger accounts of said three parties which were received by him from the Dy. Director of the Income-tax (Inv.). After discussing the Assessing Officer made addition of Rs.18,22,888/- as unexplained cash credit u/s 68 of the Act.

3. On further appeal, the Ld. CIT(A) deleted the addition for the reason that assessee took those loans in earlier years prior to assessment year under consideration and therefore, no addition could be made in the year under consideration u/s 68 of the Act.

4. We have heard rival submission of the parties and perused the relevant material on record. Before us, the Ld. counsel for the assessee submitted that all the loans in dispute were appearing as opening balance in ledger account of those parties, therefore, the Ld. CIT(A) has validly deleted the addition. The Ld. Departmental Representative (DR) on the other hand objected and submitted that in case of one of the party namely M/s Lunked Textiles Pvt. Ltd. there is a receipt of Rs.1,00,000/- during the year under consideration and therefore, the Ld. CIT(A) has deleted the addition without verifying the financial statement along with balance sheet



of the assessee for the relevant year. He submitted that issue in dispute may accordingly be required to send to the file of the AO for verification of the books of accounts of the assessee. On verification of the ledger account of M/s Lunked Textiles Pvt. Ltd. appearing in the impugned assessment order, we agree with contention of the Ld. DR that in case of M/s Lunked Textiles Pvt. Ltd. Rs. 1,00,000/- is received in the year under consideration, which the Ld. CIT(A) has wrongly treated as received in earlier year. In such circumstances veracity of opening balance of other two loans also need verification from the books of account coupled with audited financial statements prepared thereon. In the facts and circumstances of the case and in the interest of justice, we feel it appropriate to restore the issue of addition u/s 68 of the Act to the file of the Assessing Officer for verification whether the loans were taken during the year under consideration and if that is so, he shall examine the genuineness of loans in accordance with law. The ground of the appeal of the Revenue is accordingly partly allowed for statistical purposes.

5. In the result, the appeal of the Revenue is partly allowed for statistical purposes.

Order pronounced in the open Court on 19/08/2024.

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**



Mumbai;
Dated: 19/08/2024
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai