

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

(ITA No. 309/RPR/2024)
(Assessment Year: 2013-14)

Darwesh Developers, 24/905, Ramdev Market, Banjari Road, Raipur, C.G., 492001	V s	Income Tax Officer-4(1), Aaykar Bhawan, Civil Lines, Raipur (C.G.)
PAN: AAIFD8404F		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Deepak Menghani, CA
राजस्व की ओर से /Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख/ Date of Hearing	:	27.08.2024
घोषणा की तारीख/ Date of Pronouncement	:	30.08.2024

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals), NFAC, Delhi, (in short "CIT(A)"), vide order dated 06.05.2024 u/s 250 of the Income Tax Act, 1961 (in short "The Act"), for the Assessment Year 2013-14, which in turn arises from the order of Addl./Joint/Deputy/Asst. Commissioner of Income Tax/ ITO, National Faceless Assessment Centre (in short "The AO"), u/s 144 r.w.s. 263 read with section 144B of the Act, dated 28.03.2022.

2. The grounds of appeal raised by the assessee are as under:

1. The Ld. CIT(A) has erred in deciding appeal without providing due and proper opportunity to appellant. The appellate order passed by the Ld. CIT(A) is illegal inasmuch as the same is contrary to principles of natural justice and the requirements of law.
 2. The Ld. CIT(A) has erred in confirming addition of Rs. 3,00,000/- made by AO contending unsecured loan as unexplained under section 68 of the Act without considering the facts of the case properly. Such addition made by AO and confirmed by Id. CIT(A) is arbitrary, baseless and not justified.
 3. The Ld. CIT(A) has erred in confirming addition of Rs. 18,00,000/- made by AO on account of deposit made in bank account, treating the same as unexplained under section 68 without considering the facts of the case properly, such addition made by AO and confirmed by Id. CIT(A) is arbitrary, baseless and not justified.
3. The brief facts of the case are that the assessee is a partnership firm, has filed its return of income for the AY 2013-14 on 30.09.2013 declaring total income at Rs. NIL. Assessment u/s 143(3) was completed accepting return of income of the assessee vide order dated 19.03.2016. Case of the assessee was pickup for revisionary proceedings, wherein order u/s 263 was passed on 19.03.2018. Consequently, u/s 143(3) r.w.s 263 of the Act was

passed on 29.11.2018, accepting total income of the assessee as per income tax return (ITR) filed. Subsequently, the order passed u/s 143(3) r.w.s. 263 dated 29.11.2018 was taken up for revision exercising the powers conferred u/s 263 by the Ld. PCIT, Raipur-1 on 11.03.2021 and the second order u/s 263 was passed on 26.03.2021 holding that the assessment order passed u/s 143(3) r.w.s 263 dated 29.11.2018 is erroneous in so far as it is prejudicial to the interest of revenue, accordingly have set aside the AO's order dated 29.11.2018 with the directions to make adequate inquiries with regard to issuance pertaining to unsecured loans received by the assessee and to adjudicate the issues and frame a fresh assessment order after necessary inquiries after affording adequate opportunity of being heard to the assessee. In consequence to the directions of the Ld. PCIT in order u/s 263 dated 26.03.2021, set aside assessment proceedings were initiated and an order u/s 144 r.w.s. 263 r.w.s. 144B have been passed on 28.03.2022, making additions aggregating to Rs.26,00,00/- as unexplained cash credit.

4. Aggrieved with the aforesaid order dated 28.03.2022 u/s 144 r.w.s. 263 r.w.s 144B, assessee preferred an appeal before the Ld. CIT(A) wherein the issues *qua* the additions made are discussed and deliberated and the appeal of the assessee was partly allowed with the following observations:

5. Findings & determination:

The admissibility of additional evidence as per Rule 46A of the Income Tax Act: -

The admission of the additional evidence by "s allowed I the interest to render justice in the quasi-judicial proceedings before CIT(A).

Ground No. 1 The learned Assessing officer (AO) has erred in violating principle of natural justice by not providing sufficient opportunity of being heard to the appellant and hence the assessment is liable to be quashed.

The perusal of assessment order shows that appellant had been given sufficient opportunity by the AO and the reply submitted by the appellant during the assessment proceedings has been considered by AO while framing the assessment. The ground of appeal no. 1 is dismissed.

Ground No. 2 The learned AO has erred in disregarding the appellants detailed submission and made addition to the tune of Rs. 8,00,000/- contending unsecured loans as unexplained and accordingly added to the total income as unexplained credits u/s 68 of the Income-tax Act, 1961.

The perusal of the assessment order shows that in this case, PCI T Raipur -01 ha passed order u/s 263 dated 26.03.2021. AO in the assessment order has mentioned the findings given in order u/s 263. In this case, unsecured loan of Rs. 5,00,000/- and Rs has been received by the appellant from Simran Jaisinghani and Shri Pawar Sharma. AO gave the finding that Returned Income of Simran Jaisinghani is only Rs 1,95,540/- and no bank details have been furnished. The bank account of Simran Jaisinghani has been provided as additional evidence along with the confirmation of the account. The perusal of the bank account reflects the advancement of loan of Rs to M/S Darvesh Developers.

However, in case of Sh. Pawan Sharma, as per the findings given by AO, there has been several cash deposits followed by withdrawal by cheque. The creditworthiness has not

The appellant has contested that he has proved the identity of the lender by giving copy of their ITRs and creditworthiness and the transaction by providing bank statement.

In my considered opinion, the appellant% has beery able to explain the source of unsecured loan from Simran Jalsinghani amounting to SRS. 5 00,000/- but in case of loan from Sh. Pawan Sharma the source of loan remained unexplained. Hence the addition to the tune of contending unsecured loans as unexplained credits u/s 68 of the Income-tax Act, 1961 IS upheld. Ground is party allowed.

The learned AO has erred in making addition amounting to Rs. 18,00,000/- on account of deposits made in bank account of the appellant treating the same as unexplained and accordingly added to the total income as unexplained credits u/s 68 of the Income-tax Act, 1961.

AO has reiterated the PCI T findings that the cash was deposited in bank account of Laxmi Mahila Nagrik Sahkari Bank Maryadit, Raipur just before repayment of the unsecured loans as on 05.11.2012, 06.11.2012 and 22.11.2012. The appellant has not submitted the source of cash deposit either before the PCI T or before the AO. Even during the appellate proceedings, no source of cash deposited has been mentioned in the reply. In view of this, AO's observation regarding addition amounting to Rs. 18,00,000/- on account of deposits made in bank account of the appellant treating the same as unexplained is upheld. The ground of appeal no. 3 is dismissed.

Ground no. 4: *The appellant reserves the right to amend, modify or add any of the grounds of appeal.*

This ground is general in nature, hence not adjudicated.

6. *In result, the appeal is partly allowed.*

5. Dissatisfied with the order of Ld. CIT(A), wherein part relief was granted to the assessee, however, certain additions made by the Ld. AO are sustained, the assessee carried the matter by way of present appeal before us.

6. **Ground no. 1:** Regarding deciding the appeal by Ld. CIT(A) without providing due and proper opportunity to the appellant.

6.1 On this issue, it was the submission that the assessee had requested to the Ld. CIT(A) to grant an opportunity for personal / video hearing before taking any view in the matter, but such submission of the assessee was not considered by the Ld. CIT(A). On perusal of the order of Ld. CIT(A), it is observed that Ld. CIT(A) have considered the submission of the assessee and decided the issues on merits, therefore, we do not find any substance in the contentions raised by the Ld. AR, therefore, ground no. 1 raised by the Ld. AR is **dismissed** being devoid of merits.

7. **Ground no. 2:** Regarding confirmation of addition for Rs. 3.00 lacs made by the Ld. AO, treating the same as unexplained unsecured loan u/s 68 of the Act.

7.1 On the issue of unexplained unsecured loan of Rs. 3.00 lac received from Mr. Pawan Sharma, the relevant observations of the Ld. Assessing Officer in the assessment order, are as under:

4. The assessee vide submission dated 17/03/2022 has filed details in respect of the unsecured loans along with the bank statements, copies of the return of income and the confirmations. On perusal of the same it is seen that in respect of the loans received from the following parties the genuineness of the loans is not established for the following reasons:

(i) Simran Jaisinghani,, Unsecured loans of 5,00 000/- as against the returned income of Rs. 1,95,540/- further the bank statement provided is not legible. This aspect was brought to the notice of the assessee vide notice u/s 142(1) dated 18.03.2022 & compliance Was Sought on or before 20/03/2022 but there has been no response on or before the stipulated date.

(ii) Pawan Sharma: Unsecured loans of Rs. received by the assessee on 08.08.2012 but just before granting loan to the assessee there has been cash deposit in the account on 07.08.2012. On further analysis of the bank statement of Pawan Sharma it is observed that there are several cash deposits in his account during the year and immediate transfer to other accounts by cheque. It is also observed that the amounts have been transferred after deducting a certain percentage which is in the form of commission which has been reflected in his return of income. Hence, the bank statements viz-a-viz the return of income filed clearly reflects that Shri

Pawan Sharma is engaged into providing accommodation entries to various parties, the assessee being the one of them to the tune of Rs. 3,00,000/-

7.2 When the aforesaid issues were deliberated by the Ld. CIT(A), the unsecured loan received from Simaran Jaisinghani amounting to Rs. 5,00,000/- was found appropriately explained by the assessee, therefore, the same was treated as genuine, however, the unsecured loan received from Shri Pawan Sharam for Rs. 3,00,000/- was not considered to be satisfactorily explained by the assessee, and therefore, such addition made by the Ld. AO was confirmed by the Ld. CIT(A).

7.3 Now, before us, the issue assailed by the assessee is only *qua* the addition sustained by the Ld. CIT(A) on account unexplained unsecured loan of Rs. 3,00,000/- only received Mr. Pawan Sharma.

7.4 Apropos, unsecured loan received from Mr. Pawan Sharma, Ld. AR on behalf of the assessee have submitted that various documents were furnished before the Ld. AO, however, revenue authorities have not considered explanations of the assessee, and the facts are not appreciated in right perspective. Ld. AR drew our attention page no. 17-23 of the

assessee's PB, wherein such documents, like ITR, computation of income, bank statement, confirmation of account etc. were furnished. It is also the submission that an amount of Rs. 13,500/- was paid to Mr. Pawan Sharma as interest on the said loan which was not disputed by the Ld. AO. Ld. AR further drew our attention to the ledger account of Mr. Pawan Sharma, in the books of assessee firm and the confirmation of accounts dated 01.04.2013 showing that the loan so received by the company from Mr. Pawan Sharma, was repaid with interest on 20.12.2012 i.e., before the end of FY 2012-13 relevant to AY 2013-14 which is under consideration, therefore, no addition on this account is called for. It was the submission that though the cash was deposited by the Mr. Pawan Sharma while advancing the unsecured loan the onus to show source of such cash deposit was on him and not on the assessee. The assessee had discharged its onus in providing and furnishing all the necessary primary requisite information as per provisions of law. To support the aforesaid contention, Ld. AR placed before us the judicial pronouncement in the case of **Mr. Pawan Kumar Agrawal vs. ITO, Ward-2(2), Bilaspur (Tax case No. 24/2011 dated 04.04.2017)**, wherein, Hon'ble Jurisdictional High Court are held as under:

6. Section 68 of the Act provides a process by which the Assessing Authority has to reach at transactions of those persons with whom the

Assessee had entered into transactions in which the particular assessee is involved, to conclude the assessment on the basis of the transactions referable to those persons. Such concluded assessments will have a bearing on the acceptability or otherwise the plea set up by the Assessee in the course of proceeding under Section 68 of the Act. So much so, notwithstanding, the finality attained by the assessment proceeding in relation to the lender, the borrower is entitled to say that the contents of the returns of the lender and the matters emanating therefrom have to be looked into. In that view of the matter, the First Appellate Authority was justified, also on the basis of the judicial precedents referred by it, in entering the finding that the Assessee had discharged his primary onus under Section 68 of the Act. That having been done, the First Appellate Authority was fully justified in taking the view that it was open to the department to take recourse of Section 131 or Section 133(6) of the Act if they were to further proceed. That not having done so, the First Appellate Authority was within its jurisdiction to conclude on facts and law, in favour of the Assessee. The Appellate Tribunal, in the Appeal at the instance of the Revenue, has not rendered the decision holding the finding of the First Appellant Authority regarding applicability of Sections 131 and 133(6) of the Act, as the case may be, is erroneous in law. So much so, the impugned decision of the Tribunal stands faulted on a substantial question of law referable to the contents of Section 68 of the Act and the failure of the Revenue to take recourse to Sections 131 and 133(6) of the Act, in the case of assessee, where the primary onus under Section 68 of the Act stood discharged by the Assessee.

7.5 Backed by aforesaid submission, it was the argument that the initial onus cast upon the assessee was discharged u/s 68 of the Act and the recourse to section 131 and 133(6) of the Act were available with the assessing and appellate authority, in case they have any doubt on the explanation and evidence furnished by the assessee. In view of such arguments, it was the request of Ld. AR that no addition should have been made in the hands of assessee on account of unsecured loan received and repaid in the same year.

8. On this aspect, on the contrary, Ld. Sr. DR have placed her strong reliance on the orders of revenue authorities.

9. We have considered the rival submission, perused the material available on record and case laws relied upon by the parties. Under the factual matrix of the issue, it is discernible from the records that the assessee has received a loan of Rs. 3.00 lac from Mr. Pawan Sharma on 07.08.2012, also the same was repaid within the same FY on 20.12.2012 i.e., much before the matter of the assessee was picked up for scrutiny assessment u/s 143(3) by issuance of notice u/s 143(2) on 09.09.2014. As the unsecured loan availed by the assessee is fully repaid during the same year before initiation of assessment proceedings against it, therefore, the disallowance on account of unexplained cash credit u/s 68 is unjustifiable. Also, the interest paid on loan

and claimed by the assessee was allowed by the Ld. AO, supports that the transaction cannot be treated to be ingenuine. In view of aforesaid observations, the transaction of unsecured loan of Mr. Pawan Sharma, which is repaid in the same year, and nothing was left at the end of year as balance of outstanding unsecured loan, therefore, the addition made for Rs. 3.00 lac was unwarranted and is liable to be deleted. In result, **ground no. 2** of the assessee stands **allowed**.

10. **Ground No. 3:** Regarding confirmation of addition of Rs. 18.00 lac made by Ld. AO on account of deposits made in bank account treating the same as unexplained cash credit u/s 68.

10.1 On this issue, Ld. AR submitted that the Ld. AO and Ld. CIT(A) has grossly erred in treating the transfers made by partners in bank account of the assessee firm as cash deposits. To substantiate this fact, Ld. AR drew our attention to page no. 24 & 25 of the assessee's PB comprising of Bank book in the books of assessee supported with bank statement placed at page no. 26-28 of the PB. On perusal of bank statement, it is evident that an amount of Rs. 11,50,000/- is received by the assessee firm on 05.11.2012 from various saving bank accounts bearing numbers 20298, 20282, 1493, 3826 & 3825. As per bank book these amounts were received from by the assessee firm from

its partners namely, Smt. Rukmani Devi Chothwani (Rs. 1.00 lac), Smt. Parwati Devi Chothwani (Rs. 1.00 lac), Anil Kumar Lekhraj, HUF (Rs.4. 00 lac), Smt. Vandana Devi Chothwani (Rs. 2.50 lacs), Smt. Hemlata Chothwani (Rs. 3.00 lac), in aggregate total Rs. 11.50 lac. Further, an amount of Rs. 6.50 lac was received on 19.12.2012 from Shyam Lal Lekhraj HUF through bank clearing vide cheque no. 360906. To explain the aforesaid facts, Ld. AR has furnished an explanatory submission as directed along with supporting evidence which is extracted hereunder for the sake of clarity:

Before the Hon'ble Income-tax Appellate Tribunal, Raipur Bench, Raipur

Name of the Assessee	:	M/s Darwesh Developers
Assessment Year ('AY')	:	2013-14
PAN	:	AAIFD8404F
ITA No.	:	309/RPR/2024 (Assessee)
Hearing Date	:	27 August 2024 (DBC)

Respected Sir,

We refer to the aforementioned appeal wherein at the time of hearing your Honor directed the appellant to file a detailed chart in respect to Ground no. 3 i.e. addition of Rs.18,00,000.

Ground No. 3 reiterated for your ready reference:

The Ld. CIT(A) has erred in confirming addition of Rs. 18,00,000/- made by AO on account of deposit made in bank account, treating the same as unexplained under section 68 without considering the facts of the case properly. Such addition made by AO and confirmed by Id. CIT(A) is arbitrary, baseless and not justified.

Submission:

- The Ld. AO/CIT(A) has grossly erred in treating transfer made by partners in bank account of the firm as cash deposit.
- During the captioned year, cash deposit in the account of firm was Rs.5,000 only.
- The cash deposits as alleged by Ld. AO and confirmed by Ld. CIT(A) are in gross misunderstanding of the facts of the present case.
- The alleged cash deposit of Rs.18,00,000 is nothing but transfer from bank account of partners to the bank account of the firm which is detailed as below:

Date in bank statement	From Bank Account of Partner	To Bank Account of Firm	Amount
05.11.2012	Rukhmani Devi Chothwani	Consolidated entry reflected in Bank account with narration SB- 20298, 20282, 1493, 3826, 3825	Rs. 11,50,000
	Parvati Devi Chothwani		
	Anil Kumar Lekhraj HUF		
	Vandana Devi Chothwani		
20.12.2012	Hemlata Chothwani		
	Shyamlal Lekhraj HUF	Cheque No. 360906	Rs. 6,50,000
Total::			Rs.18,00,000

- To substantiate the above enclosed herewith is Bank Statement of the firm along with bank book and partners ledger account for your ready reference.
- Should your Honor require any further information or require any clarification, please do let us know.

Yours Faithfully,



CA Deepak Menghani

(AR for Darwesh Developers)

493]-LAXMI MAHILA NAGRIK SAHAKARI BANK MARYADIT RAIPUR (C.G)
 [2]-MAIN BRANCH Main Branch Raipur.
 Raipur City,Raipur Taluka,Raipur,Chhattisgarh,India,
 Statement Of Account (Account Balance)
 GI Code : 2520 GI Name : CURRENT DEPOSIT
 A/C No. : 000200090000004295 A/C Name : Darwesh Developers
 Address : Vijay Soapgali Naharpara Raipur, City : Raipur City, Tah : Raipur Tal
 From Date: 01/07/2012 To Date : 31/03/2013

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Trans. Date	Mo Particulars De	Cheque No.	Withdrawal	Deposit	Balance
01-07-2012	Opening Balance				0.00
01-07-2012	by cash			5000.00	5000.00
01-07-2012	Chq. Book Issue charges 2520-000200090000004295		56.00		4944.00
01-08-2012	by tra sb 1493				
01-08-2012	O/W Clg Bank-496 Branch-100 Chq. No.-626812	626812		815000.00 500000.00	819944.00 1319944.00
01-08-2012	O/W Clg Bank-496 Branch-100 Chq. No.-626853	626853		500000.00	1819944.00
01-08-2012	O/W Clg Bank-496 Branch-100 Chq. No.-677508	677508		950000.00	2769944.00
01-08-2012	O/W Clg Bank-496 Branch-100 Chq. No.-662670	662670		1180000.00	3949944.00
01-08-2012	O/W Clg Bank-28 Branch-100 Chq. No.-304781	304781		500000.00	4449944.00
01-08-2012	O/W Clg Bank-28 Branch-100 Chq. No.-360903	360903		1900000.00	6349944.00
01-08-2012	O/W Clg Bank-28 Branch-100 Chq. No.-304645	304645		1700000.00	8049944.00
01-08-2012	by tra sb 23163				
01-08-2012	O/W Clg Bank-19 Branch-100 Chq. No.-111174	111174		1465000.00 100000.00	9514944.00 9614944.00
01-08-2012	O/W Clg Bank-26 Branch-100 Chq. No.-139096	139096		100000.00	9714944.00
01-08-2012	O/W Clg Bank-26 Branch-100 Chq. No.-010674	010674		150000.00	9864944.00
01-08-2012	O/W Clg Bank-26 Branch-100 Chq. No.-008234	008234		150000.00	10014944.00
01-08-2012	O/W Clg Bank-17 Branch-100 Chq. No.-200372	200372		100000.00	10114944.00
01-08-2012	O/W Clg Bank-17 Branch-100 Chq. No.-689405	689405		700000.00	10814944.00
01-08-2012	O/W Clg Bank-16 Branch-100 Chq. No.-102751	102751		500000.00	11314944.00
01-08-2012	O/W Clg Bank-16 Branch-100 Chq. No.-116072	116072		500000.00	11814944.00
01-08-2012	O/W Clg Bank-28 Branch-100 Chq. No.-304646	304646		300000.00	12114944.00
01-08-2012	O/W Clg Bank-496 Branch-100 Chq. No.-677482	677482		2560000.00	14674944.00

Recursive Page Total : 56.00 14675000.00

[493]-LAXMI MAHILA NAGRIK SAHAKARI BANK MARYADIT RAIPUR (C.G)
[2]-MAIN BRANCH Main Branch Raipur.

Raipur City,Raipur Taluka,Raipur,Chhattisgarh,India,
Statement Of Account (Account Balance)

Sl Code : 2520 GI Name : CURRENT DEPOSIT
A/C No. : 000200090000004295 A/C Name : Darwesh Developers
Address : Vijay Soapgali Naharpara Raipur, City : Raipur City, Tah : Raipur Tal
From Date: 01/07/2012 To Date : 31/03/2013

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Trans. Date	Mo Particulars De	Cheque No.	Withdrawal	Deposit	Balan
07/08/2012	O/W Clg Bank-28 Branch-100 Chq. No.-360904	360904		1200000.00	15874944.00
08/08/2012	by tr sb-23163			400000.00	16274944.00
08/08/2012	O/W Clg Bank-2 Branch-100 Chq. No.-519085	519085		500000.00	16774944.00
08/08/2012	O/W Clg Bank-496 Branch-100 Chq. No.-662374	662374		300000.00	17074944.00
08/08/2012	To I/w.Clg. SANTOSH	574502	4095.00		17070849.00
08/08/2012	To I/w.Clg. SANTOSH	574501	28665.00		17042184.00
08/08/2012	To I/w.Clg. MADAN	574509	6590000.00		10452184.00
08/08/2012	To I/w.Clg. RAJESH	574506	3337.00		10448847.00
08/08/2012	To I/w.Clg. MADAN	574510	6000000.00		4448847.00
08/08/2012	To I/w.Clg. SIMRAN JAISINGHANI	574508	20475.00		4428372.00
08/08/2012	To I/w.Clg. BHIMNDRS JAISINGHANI	574507	20475.00		4407897.00
08/08/2012	To I/w.Clg. MADAN CONSTR	574511	4355000.00		52897.00
08/08/2012	To I/w.Clg. HEMLATA	574503	3337.00		49560.00
08/08/2012	To I/w.Clg. NIKESH	574505	4895.00		44665.00
08/08/2012	To I/w.Clg. SHAILESH	574504	4895.00		39770.00
08/08/2012	To I/w.Clg. C.P BHATIA	574512	15000.00		24770.00
08/11/2012	O/W Clg Bank-496 Branch-100 Chq. No.-677511	677511		70000.00	94770.00
08/11/2012	BY TRN SB-20298,20282,1493,3826,3825			1150000.00	1244770.00
08/11/2012	O/W Clg Bank-496 Branch-100 Chq. No.-626855	626855		65000.00	1309770.00
08/11/2012	O/W Clg Bank-496 Branch-100 Chq. No.-626814	626814		55000.00	1364770.00
08/11/2012	O/W Clg Bank-496 Branch-100 Chq. No.-662652	662652		350000.00	1714770.00
08/11/2012	O/W Clg Bank-496 Branch-100 Chq. No.-606834	606834		60000.00	1774770.00
08/11/2012	O/W Clg Bank-496 Branch-100 Chq. No.-653256	653256		80000.00	1854770.00
08/11/2012	O/W Clg Bank-496 Branch-100 Chq. No.-639495	639495		160000.00	2014770.00
08/11/2012	O/W Clg Bank-28 Branch-100 Chq. No.-360905	360905		300000.00	2314770.00
08/11/2012	To I/w.Clg. SANTOSH KUMAR	574513	700000.00		1614770.00
08/11/2012	To I/w.Clg. SANTOSH KUMAR	574514	100000.00		1514770.00

Recursive Page Total : 17850230.00 19365000.00

[493]-LAXMI MAHILA NAGRIK SAHAKARI BANK MARYADIT RAIPUR (C.G)
[2]-MAIN BRANCH Main Branch Raipur.
Raipur City,Raipur Taluka,Raipur,Chhattisgarh,India,
Statement Of Account (Account Balance)

GI Code : 2520 GI Name : CURRENT DEPOSIT
A/C No. : 000200090000004295 A/C Name : Darwesh Developers
Address : Vijay Soapgali Naharpara Raipur, City : Raipur City, Tah : Raipur Tal
From Date: 01/07/2012 To Date : 31/03/2013

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Trans. Date	Mo Particulars De	Cheque No.	Withdrawal	Deposit	Bala
18/11/2012	To I/w.Clg. HEMLATA JAIN	574515	100000.00		1414770
18/11/2012	To I/w.Clg. NIKESH KUMAR	574517	150000.00		1264770
18/11/2012	To I/w.Clg. SHAILESH KUMAR	574516	150000.00		1114770
18/11/2012	To I/w.Clg. RAJESH KUMAR	574518	100000.00		1014770
18/11/2012	To I/w.Clg. SIMRAN JAISINGHANI	574520	500000.00		514770
18/11/2012	To I/w.Clg. BHIRAN DAS JAISINGHANI & SONS HUF	574519	500000.00		14770
21/12/2012	O/W Clg Bank-28 Branch-100 Chq. No.-360906	360906		650000.00	664770.
22/12/2012	to tr sb-23163	574521	575000.00		89770.
22/12/2012	O/W Clg Bank-2 Branch-100 Chq. No.-593401	593401		230000.00	319770.
22/12/2012	O/W Clg Bank-496 Branch-100 Chq. No.-677514	677514		510000.00	829770.
23/12/2012	O/W Clg Bank-28 Branch-100 Chq. No.-304785	304785		90000.00	919770.
25/12/2012	to tr sb-23163	574523	600000.00		319770.
27/12/2012	To I/w.Clg. PAWAN SHARMA	574522	313500.00		6270.
31/03/2013	Entry Charges From 01-APR-12 To 31-MAR-13		98.00		6172.
31/03/2013	Entry Charges From 01-APR-12 To 31-MAR-13		13.00		6159.
31/03/2013	clg Entry Charges From 01-APR-12 To 31-MAR-13		106.00		6053.

Grand Total : 20838947.00 20845000.00

Balance :	6053.00 CR	Int.Payable :	0.00 CR
Ovd.Payable :	0.00 CR	Other Balance:	0.00 CR

Total No. Of Records : 65

Clerk / Cashier / Officer / Manager

1-1-13-05/04/2013 17:04:25-saving.

Menu Id : 0 Report Id : 30

DARWESH DEVELOPERS
RAMDEV MARKET BANJARI ROAD RAIPUR(C.G.)
LAXMI MAHILA NAGRIK SAHKARI BANK A/C NO. 4295 Book

1-Apr-12 to 31-Mar-13

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
19-Jul-12	To Cash	Contra			
31-Jul-12	By BANK COMMISSION EXP.	Payment	1	5,000.00	
4-Aug-12	To (as per details)	Receipt	2	31,30,000.00	56.00
	SHYAM MAHESH & BROTHER HUF			5,00,000.00 Cr	
	SHYAM AMAR & BROTHER HUF			5,00,000.00 Cr	
	AMAR KUMAR CHOTHWANI			9,50,000.00 Cr	
	GULSHAN CHOTHWANI			11,80,000.00 Cr	
	To (as per details)	Receipt	3	41,00,000.00	
	SHYAM LAL CHOTHWANI & SONS HUF			5,00,000.00 Cr	
	SHYAM LAL LEKHRAJ HUF			18,00,000.00 Cr	
	LEKHRAJ CHOTHWANI & SONS HUF			17,00,000.00 Cr	
6-Aug-12	To LEKHRAJ CHOTHWANI & SONS HUF	Receipt	4	3,00,000.00	
	To ANIL KUMAR LEKHRAJ HUF	Receipt	5	8,15,000.00	
	To (as per details)	Receipt	6	37,60,000.00	
	ANIL KUMAR CHOTHWANI RAIPUR			25,60,000.00 Cr	
	SHYAM LAL LEKHRAJ HUF			12,00,000.00 Cr	
	To SIMRAN JAISINGHANI	Receipt	7	5,00,000.00	
	To SANTOSH KUMAR HUF	Receipt	8	1,00,000.00	
	To (as per details)	Receipt	9	3,00,000.00	
	NIKESH KUMAR JAIN			1,50,000.00 Cr	
	SHAILESH KUMAR JAIN			1,50,000.00 Cr	
	To (as per details)	Receipt	10	2,00,000.00	
	RAJESH KUMAR JAIN HUF			1,00,000.00 Cr	
	HEMLATA JAIN			1,00,000.00 Cr	
	By INTEREST EXP. A/C	Payment	3		
	By INTEREST EXP. A/C	Payment	4	28,665.00	
	By HEMLATA JAIN	Payment	5	4,095.00	
	By SHAILESH KUMAR JAIN	Payment	6	3,337.00	
	By NIKESH KUMAR JAIN	Payment	7	4,895.00	
	By RAJESH KUMAR JAIN HUF	Payment	8	4,895.00	
	By INTEREST EXP. A/C	Payment	9	3,337.00	
	By INTEREST EXP. A/C	Payment	10	20,475.00	
	To BHIMAN DAS JAISINGHANI & SONS HUF	Receipt	11		20,475.00
	To SANTOSH KUMAR CHHABLANI	Receipt	12	5,00,000.00	
7-Aug-12	To SHYAM LAL CHOTHWANI RAIPUR	Receipt	13	7,00,000.00	
	To SHYAM LAL CHOTHWANI RAIPUR	Receipt	14	14,65,000.00	
	By MADAN CONSTRUCTION	Payment	15	5,00,000.00	
	To PAWAN SHARMA	Receipt	16		65,90,000.00
8-Aug-12	By MADAN CONSTRUCTION	Payment	17	3,00,000.00	
	To SHYAM LAL CHOTHWANI RAIPUR	Receipt	18		60,00,000.00
9-Aug-12	By MADAN CONSTRUCTION	Payment	19	4,00,000.00	
16-Aug-12	By ADVOCATE FEES EXP.	Payment	20		43,55,000.00
2-Nov-12	To AMAR KUMAR CHOTHWANI	Receipt	21		15,000.00
5-Nov-12	To (as per details)	Receipt	22	70,000.00	
	SHYAM LAL ANIL KUMAR HUF			3,50,000.00 Cr	
	PRIYA CHOTHWANI			60,000.00 Cr	
	MAHESH KUMAR CHOTHWANI			80,000.00 Cr	
	ANIL KUMAR HUF			1,60,000.00 Cr	
	SHYAM LAL LEKHRAJ HUF			3,60,000.00 Cr	
	Carried Over				
				1,80,95,000.00	1,70,50,230.00

DARWESH DEVELOPERS

LAXMI MAHILA NAGRIK SAHKARI BANK A/C NO. 4295 Book

: 1-Apr-12 to 31-Mar-13

Page 2

Date	Particulars	Vch Type	Vch No.	Debit	Credit
	Brought Forward			1,80,95,000.00	1,70,50,230.00
5-Nov-12	To (as per details) SHYAM AMAR & BROTHER HUF SHYAM MAHESH & BROTHER HUF	Receipt	19	1,20,000.00	
				65,000.00 Cr 55,000.00 Cr	
	To (as per details) SMT. RUKMANI DEVI CHOTHWANI SMT. PARVATI DEVI CHOTHWANI ANIL KUMAR LEKHRAJ HUF SMT. VANDANA DEVI CHOTHWANI SMT. HEMLATA CHOTHWANI	Receipt	20	11,50,000.00	
				1,00,000.00 Cr 1,00,000.00 Cr 4,00,000.00 Cr 2,50,000.00 Cr 3,00,000.00 Cr	
	By SANTOSH KUMAR CHHABLANI	Payment	15		7,00,000.00
	By SANTOSH KUMAR HUF	Payment	16		1,00,000.00
	By HEMLATA JAIN	Payment	17		1,00,000.00
	By SHAILESH KUMAR JAIN	Payment	18		1,50,000.00
	By NIKESH KUMAR JAIN	Payment	19		1,50,000.00
	By RAJESH KUMAR JAIN HUF	Payment	20		1,00,000.00
	By BHIMAN DAS JAISINGHANI & SONS HUF	Payment	21		5,00,000.00
	By SIMRAN JAISINGHANI	Payment	22		5,00,000.00
19-Dec-12	To SHYAM LAL LEKHRAJ HUF	Receipt	21	6,50,000.00	
	To GULSHAN CHOTHWANI	Receipt	22	2,30,000.00	
20-Dec-12	By SHYAM LAL CHOTHWANI RAIPUR	Payment	23		5,75,000.00
	By PAWAN SHARMA	Payment	24		3,13,500.00
21-Dec-12	To AMAR KUMAR CHOTHWANI	Receipt	23	5,10,000.00	
24-Dec-12	To SHYAM LAL CHOTHWANI & SONS HUF	Receipt	24	90,000.00	
26-Dec-12	By SHYAM LAL CHOTHWANI RAIPUR	Payment	25		6,00,000.00
31-Mar-13	By BANK COMMISSION EXP.	Payment	28		217.00
	By Closing Balance			2,08,45,000.00	2,08,38,947.00
					6,053.00
				<u>2,08,45,000.00</u>	<u>2,08,45,000.00</u>

DARWESH DEVELOPERS
RAMDEV MARKET BANJARI ROAD RAIPUR(C.G.)SMT. RUKMANI DEVI CHOTHWANI
Ledger Account

1-Apr-12 to 31-Mar-13

Date	Particulars	Vch Type	Vch No.	Debit	Credit
5-Nov-12	By LAXMI MAHILA NAGRIK SAHKARI BANK A/C NO. 4295	Receipt	20		1,00,000.00
31-Mar-13	By INTEREST EXP. A/C	Journal	160		4,867.00
	To Closing Balance			1,04,867.00	
				<u>1,04,867.00</u>	<u>1,04,867.00</u>

DARWESH DEVELOPERS
RAMDEV MARKET BANJARI ROAD RAIPUR(C.G.)**SMT. PARVATI DEVI CHOTHWANI**
Ledger Account

1-Apr-12 to 31-Mar-13

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
5-Nov-12	By LAXMI MAHILA NAGRIK SAHKARI BANK A/C NO. 4295	Receipt	20		1,00,000.00
31-Mar-13	By INTEREST EXP. A/C	Journal	159		4,867.00
	To Closing Balance			1,04,867.00	1,04,867.00
				1,04,867.00	1,04,867.00

DARWESH DEVELOPERS
RAMDEV MARKET BANJARI ROAD RAIPUR(C.G.)**ANIL KUMAR LEKHRAJ HUF**
Ledger Account

1-Apr-12 to 31-Mar-13

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
6-Aug-12	By LAXMI MAHILA NAGRIK SAHKARI BANK A/C NO. 4295	Receipt	5		8,15,000.00
5-Nov-12	By LAXMI MAHILA NAGRIK SAHKARI BANK A/C NO. 4295	Receipt	20		4,00,000.00
31-Mar-13	By INTEREST EXP. A/C	Journal	113		83,309.00
	To TDS. PAYBLE A/C	Journal	136	8,331.00	
	To Closing Balance			8,331.00	12,98,309.00
				12,89,978.00	
				12,98,309.00	12,98,309.00

DARWESH DEVELOPERS
RAMDEV MARKET BANJARI ROAD RAIPUR(C.G.)**SMT. VANDANA DEVI CHOTHWANI**
Ledger Account

1-Apr-12 to 31-Mar-13

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
5-Nov-12	By LAXMI MAHILA NAGRIK SAHKARI BANK A/C NO. 4295	Receipt	20		2,50,000.00
31-Mar-13	By INTEREST EXP. A/C	Journal	127		12,167.00
	To TDS. PAYBLE A/C	Journal	128	1,217.00	
	To Closing Balance			1,217.00	2,62,167.00
				2,60,950.00	
				2,62,167.00	2,62,167.00

DARWESH DEVELOPERS
RAMDEV MARKET BANJARI ROAD RAIPUR(C.G.)

SMT. HEMLATA CHOTHWANI
Ledger Account

1-Apr-12 to 31-Mar-13

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
5-Nov-12	By LAXMI MAHILA NAGRİK SAHKARI BANK A/C NO. 4295	Receipt	20		3,00,000.00
31-Mar-13	By INTEREST EXP. A/C	Journal	125		14,600.00
	To TDS. PAYBLE A/C	Journal	126	1,460.00	
				1,460.00	3,14,600.00
To	Closing Balance			3,13,140.00	
				3,14,600.00	3,14,600.00

DARWESH DEVELOPERS
RAMDEV MARKET BANJARI ROAD RAIPUR(C.G.)

SHYAM LAL LEKHRAJ HUF
Ledger Account

1-Apr-12 to 31-Mar-13

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
4-Aug-12	By LAXMI MAHILA NAGRİK SAHKARI BANK A/C NO. 4295	Receipt	3		19,00,000.00
6-Aug-12	By LAXMI MAHILA NAGRİK SAHKARI BANK A/C NO. 4295	Receipt	6		12,00,000.00
5-Nov-12	By LAXMI MAHILA NAGRİK SAHKARI BANK A/C NO. 4295	Receipt	18		3,00,000.00
19-Dec-12	By LAXMI MAHILA NAGRİK SAHKARI BANK A/C NO. 4295	Receipt	21		6,50,000.00
31-Mar-13	By INTEREST EXP. A/C	Journal	123		2,80,800.00
	To TDS. PAYBLE A/C	Journal	124	28,080.00	
				28,080.00	43,30,800.00
To	Closing Balance			43,02,720.00	
				43,30,800.00	43,30,800.00

10.2 Based on aforesaid submissions and supporting documents, it was the prayer that the aforesaid addition made by the Ld. AO and sustain by the Ld. CIT(A) are without appreciation of facts of the case correctly, with preconceived mind set and without any inquiry from the concerned lenders or without any adequate opportunity to explain the same to the assessee, therefore, the additions on account of unexplained unsecured loan made for Rs. 18.00 lac is liable to be vacated.

10.3 Ld. Sr. DR on the other hand, vehemently supported the order of revenue authority and submitted that the assessee was non-compliant before both the authorities below and no explanations have been offered before them. It is further submitted that the additions are made after proper appreciation of the facts as per prescribed provisions of law, therefore, the same deserves to be sustain.

10.4 We have considered the rival submission, perused the material available on record and case laws relied upon by the parties. On perusal of assessment order u/s 143(3) r.w.s. 263 and impugned order u/s 250 of the Act, it is apparent that the allegation of the department that there were cash deposits in the bank account of the assessee was found to be bereft of substance and could not be proved with the support of any cogent, corroborative evidence by the revenue. It is further observed that the inquiries to be conducted as directed by the Ld. PCIT vide order u/s 263 dated 26.03.2021, were not found to be Acted upon by either of the revenue authorities as per records available before us. On perusal of submissions by the Ld. AR along with supporting evidence which were available before the Ld. AO/ Ld. CIT(A), the contention that the unsecured loans are received from the partners of the assessee firm, on which interest was also paid which was not disputed by the Ld. AO. It is further observed that no action u/s 131 or 133(6)

was either proposed or taken during the course of assessment proceedings or appellate proceedings. Under such facts and circumstances, the addition made by the Ld. AO is found to be without any basis as to how the unsecured loan received by the assessee falls within the definition of unexplained unsecured loan in the books of the assessee as per provisions of section 68. Ld. CIT(A) has dealt with the matter very briefly, accepting the observations of Ld. AO summarily without taking recourse of inquiries by himself or through AO, so as to find out the factual status about the genuineness of the loans so availed by the assessee and creditworthiness of the loan creditors. In view of such observation, on perusal of the material placed on record by the Ld. AR, which was available before the revenue authorities also, in the form of submissions with supporting evidence, we find substance in the contentions raised by the Ld. AR and therefore, in absence of any contrary submissions, decision or evidence that cash was deposited in bank account of the assessee, the addition made on account of unexplained unsecured loan cannot sustain. We, therefore, direct to vacate the same. Consequently, **ground no. 3** of the assessee's appeal is **allowed**.

11. **Ground No. 4** of the present appeal is general and academic in nature; therefore, no separate adjudication is required.

12. In result, the appeal of the assessee in ITA No. 309/RPR/2024 is **allowed**, in terms of our aforesaid observations.

Order pronounced in the open court on 30/08/2024.

Sd/-
(RAVISH SOOD)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 30/08/2024
Vaibhav Shrivastav

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Darwesh Developers
2. प्रत्यर्थी / The Respondent-ITO-4(1), Raipur
3. आयकर आयुक्त(अपील) / The CIT(A),
4. The Pr. CIT-1, Raipur (C.G.)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
6. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur