

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

ITA No. 2615/Mum/2024
Assessment Year 2018-19

Devang R Shah HUF, Fl.No. 4, Dheerajsaavera Tower, Khatau Mill Compod off we Highway, Borivali East, Mumbai PAN : AAFHD8519L	vs.	Assessing Officer, National e-Assessment Centre, Ward-42(1)(2), Kautilya Bhavan, BKC, Bandra (E), Mumbai
(Appellant)		(Respondent)

For Assessee :	Shri Madhur Agrawal & Shri Shreyam Shah
For Revenue :	Smt. Mahita Nair, Sr.DR

Date of Hearing :	09-09-2024
Date of Pronouncement :	13-09-2024

ORDER

PER OM PRAKASH KANT, A.M :

This appeal has been preferred by the assessee against the order dated 12-03-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi [in short Ld.CIT(A)] for the Assessment Year (AY) 2018-19, raising following grounds:

“1. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in confirming the addition of Rs. 1,35,00,000/- u/s. 68 of the Act made by the learned assessing officer and dismissing the appeal.

2. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in confirming the addition of Rs. 1,35,00,000/- u/s. 68 of the Act made by the learned assessing officer even though the appellant had submitted documentary evidences like PAN, Bank Statement highlighting payment, Written Confirmation, etc. thereby discharging the onus casted upon him u/s. 68 of the Act.

3. On the facts and circumstances of the case and in law, the learned CIT(A) has erred in confirming the addition of Rs. 1,35,00,000/- u/s. 68 of the Act made by the learned assessing officer by solely relying on irrelevant consideration that there is an alleged discrepancy in the signatures in the PAN card and confirmation of account and without giving any opportunity to explain the deficiencies.”

2. Briefly stated facts of the case are that the assessee filed return of income for the year under consideration on 03-10-2018, declaring total income at Rs. NIL. The return of income filed by the assessee was selected for scrutiny assessment and statutory notices under the Income Tax Act, 1961 (in short ‘the Act’) was issued and complied with. During the assessment proceedings, the Assessing Officer (AO) noticed from the Balance Sheet dated 31-03-2018 i.e. on year end, of the assessee that an amount of Rs. 4,46,72,275/- was appearing on the Liabilities side as un-secured loan from M/s. Mangal Credit, whereas in the confirmation filed by M/s. Mangal Credit, closing balance of Rs. 3,02,89,700/- was reported. Therefore, the AO asked the assessee to reconcile the difference of Rs. 1,43,82,575/- (i.e. Rs. 4,46,72,275 – Rs. 3,02,89,700). In response, the assessee submitted that out of Rs. 1,43,82,575/-, an amount of Rs. 1,35,00,000/- pertains to loan taken from Ms. ‘Neeta Maloo’, which was erroneously recorded in the ledger account of M/s. Mangal Credit, due to typing mistake in data entry and the amount of Rs. 8,82,500/- was on account of excess interest expenses claimed, payable on the aforesaid loan by the assessee. The reply of the assessee in respect of the amount of Rs. 8,82,575/- was accepted by the AO, however, in respect of the amount of

Rs. 1,35,00,000/-, the AO asked the assessee to justify the credit in terms of section 68 of the Act. The AO also issued notice u/s. 133(6) of the Act to 'Neeta Maloo', however, the same remain un-responded. The AO further observed from the submission of the assessee that name of 'Neeta Maloo' was not appearing in the bank book of the assessee and the signature on the confirmation filed by the assessee was not tallying with her signature on PAN Card. Accordingly, the AO held that amount of Rs. 1,35,00,000/- as un-explained cash credit in terms of section 68 of the Act.

3. On further appeal, the assessee brought attention of Id CIT(A) towards bank account of Ms. 'Neeta Maloo', wherein entries of loan given to the assessee were appearing. The assessee also brought attention to the bank account of the assessee, where the loan received from 'Neeta Maloo' was appearing. However, the Ld.CIT(A) rejected the contention of the assessee observing, **firstly**, that name of the Neeta Maloo was not appearing in the Books of Accounts of the assessee, which were duly audited in terms of section 44AB of the Act, **secondly**, in the bank book also no receipt was appearing from Neeta Maloo, **thirdly**, there was no response from the said party to the notice issued u/s. 133(6) of the Act and **finally**, discrepancy in the signature on PAN Card and confirmation letter supplied by said party.

3.1. Aggrieved with the finding of the Ld.CIT(A), the assessee is in appeal before the Income-tax Appellate Tribunal (in short 'the Tribunal') by way of the grounds as reproduced above.

4. Before us, the learned counsel for the assessee has filed a paper book containing pages 1 to 41. The learned counsel for the assessee referred to the page No. 40 of the paper book, which is bank statement of Neeta Maloo and submitted that the loan given to the assessee is appearing in her bank statement. The learned counsel for the assessee

referred to four entries of loan appearing in bank account, for ready reference, same reproduced as under:

TRN DT	VALUE DT	PARTICULARS	CHQ	DEBIT	CREDIT	BALANCE
20/11/2017	20/11/2017	RTGS DEVANG SHAH HUF BCBMH17323005804	205665	40,00,000.00		
15/11/2017	15/11/2017	RTGS DEVANG SHAH HUF BCBMH17318006861	208635	30,00,000.00		
14/11/2017	14/11/2017	RTGS DEVANG SHAH HUF BCBMH17317000287	205657	15,00,000.00		
08/11/2017	08/11/2017	RTGS DEVANG SHAH HUF BCBMH17311009554	205656	50,00,000.00		

4.1. Further, the learned counsel for the assessee also referred to the page No. 30 of the paper book, which is the bank statement of the assessee, wherein all the four entries are appearing as the amount credited in the bank account of the assessee. Before us, learned counsel for the assessee submitted that inadvertently, the loan received was entered in the Books of Account as 'Neelam Maloo' rather than 'Neeta Maloo' and that the person belonging to M/s. Mangal Credit group, same was also inadvertently grouped by the accountant of assessee along with M/s. Mangal Credit. This was a bonafide mistake on the part of the assessee and remained un-noticed by the auditor also. Regarding non-responding of notice issued u/s. 133(6) of the Act, learned counsel for the assessee submitted that notice u/s. 133(6) of the Act was issued through e-proceedings on the address of the said party recorded in PAN data, whereas, during relevant time, she was residing at Mumbai address, which was given in the confirmation. Since no one was staying at her PAN data address, the notice sent u/s. 133(6) of the Act could not be responded by her. Regarding discrepancy in signature, the learned counsel for the assessee submitted that PAN card must have been issued long back and, therefore, there is a possibility of slight variation in the signature of Miss Maloo, which can be explained by her only. The learned counsel for the assessee

submitted that issue in dispute may be restored back to the file of the AO for verification of credit of Rs. 1,35,00,000/- from Neeta Maloo.

4.2. On perusal of the bank statement of Neeta Maloo, available at page No. 40 and bank statement of assessee at page No. 30, we are of the opinion that loan amount of Rs. 1,35,00,000/- has been received by the assessee from 'Neeta Maloo' and might be due to bonafide mistake grouped along with M/s Mangal Credit. It is clear from the entries of the bank statement of Neeta Maloo that such funds were received by her from her husband, Mr. Sandeep Labh Chand Maloo, as appearing from page No. 40 of the paper book. But verification of identity of Neeta Maloo need to be verified particularly in view of non compliance of notice u/s 133(6) of the Act and variation in her signature. The mistake in books of accounts of the assessee and balance sheet, need to be verified and certified by the statutory auditor, who audited the books of accounts of the assessee for the year under consideration. In view of the facts and circumstances of the case and submission of the learned counsel for the assessee, we feel it appropriate to restore the matter back to the file of the AO for further verification of the identity of the said creditor. Accordingly, the sole issue in dispute involved in the grounds of appeal of the assessee is treated as allowed for statistical purposes.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 13th September, 2024

Sd/-
(MS. KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai, Date : 13-09-2024

TNMM

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "D" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai