



**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "F" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.1442/Del/2017  
[Assessment Year : 2012-13]**

DCIT, Circle-II, Moradabad.	vs	Shri Rakesh Kumar, C/o-M/s. Rakesh Oil Co., Jawahar Road, Chandausi. <b>PAN-ABIPK2946E</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>		Shri Akhilesh Yadav, Sr.DR
<b>Respondent by</b>		None
<b>Date of Hearing</b>		12.09.2024
<b>Date of Pronouncement</b>		15.10.2024

**ORDER**

**PER KUL BHARAT, JM :**

The present appeal filed by the Revenue is directed against the order passed by Ld.CIT(A), Moradabad dated 30.01.2017 for the assessment year 2012-13. The Revenue has raised following grounds of appeal:-

1. *"That the Ld. Commissioner of Income Tax (Appeal), Moradabad has erred in law and on the facts of the case in deleting the addition of Rs. 44,67,438/- made on account of unsecured loan are bogus cash credits of Rs. 37,25,628/- & added back as unexplained cash credit u/s 68 of the I.T. Act, 1961 and disallowance of alleged interest paid to loan depositors of Rs. 7,41,810/-.*
2. *That the Ld. Commissioner of Income Tax (Appeal), Moradabad has erred in law and on the facts of the case in deleting the addition of Rs. 3,25,30,988/- made on account of unexplained and unaccounted credit entries in assessee's various bank accounts.*



3. *That the Ld. Commissioner of Income Tax (Appeal), Moradabad has erred in law and on the facts of the case in deleting the addition of Rs. 3,88,991/- made on account of disallowance out of tanker expenses invoking the provision of 44AE.*
4. *That the order of the Ld. Commissioner of Income Tax (Appeal), Moradabad is erroneous in law and on facts may be cancelled and the order of the Assessing Officer may be restored.*
5. *Any other grounds may be taken during the course of the hearing of the appeal may also be kindly allowed.”*

2. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that despite providing multiple opportunities to the assessee, no one has been attending the proceedings on behalf of the assessee. Therefore, the appeal of the Revenue is taken up for hearing in the absence of the assessee and is being adjudicated on the basis of material available on record.

3. Facts giving rise to the present appeal are that the assessee filed his return of income on 27.09.2012 through e-mode, declaring total income of INR 14,29,470/-. The case was selected for scrutiny assessment. The Assessing Officer (“AO”) issued statutory notices to the assessee. In response thereto, Ld. Authorized Representative (“AR”) of the assessee attended the proceedings. The assessee is engaged in the business of petrol pump, sale of MS, HSD, lubricants and running tanker. During the course of assessment proceedings, the AO noticed that there were unsecured loan liability. Accordingly, the assessee was called upon to explain the unsecured liability. The AO on the



basis that the assessee failed to establish creditworthiness and genuineness of the transaction, made addition by invoking the provision of section 68 of the Income Tax Act, 1961 ("the Act"). Thereby, the AO added unsecured loan liability of INR 37,25,628/- and the interest expenditure thereon of INR 7,41,810/-. The AO further on treating the credit entries in different bank accounts of the assessee, made addition of INR 3,25,30,988.90/-. Further, he made disallowance out of tanker plying business of INR 3,88,991/- and adhoc disallowance is out of telephone, car and unverified expenses of INR 37,270/- and INR 50,000/- respectively. Thus, he assessed the total income of the assessee at INR 3,89,04,160/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, partly allowed the appeal. Thereby, he deleted the addition related to unsecured loan and interest thereon, credit entries in the different bank accounts of the assessee and expenses related to tanker plying.

5. Aggrieved against the order of Ld.CIT(A), the Revenue has filed appeal before this Tribunal.

6. We have heard Ld. Sr. DR for the Revenue and perused the material available on record and gone through the orders of the authorities below. We find that it is noticed from the records that there is a letter placed on record by the Ld. Counsel for the assessee that it was intimating about the death of the assessee. The Revenue was asked to bring Legal Heir of the assessee on record



which has not been done despite various opportunities. The appeal cannot proceed without bring on the record the Legal Heir of the assessee. We therefore, dismiss the appeal of the Revenue with a liberty to seek recalling of the order if they wish to proceed with the matter against the Legal Heir of the assessee. Grounds raised by the Revenue are accordingly, dismissed.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 15<sup>th</sup> October, 2024.

**Sd/-**

**Sd/-**

**(AVDHESH KUMAR MISHRA)  
ACCOUNTANT MEMBER**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\* Amit Kumar \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI