

**| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"E" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**  
**&**  
**SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**I.T.A. No. 3961/Mum/2024**  
**Assessment Year: 2020-21**

<b>Assistant Commissioner of Income tax, Circle-4(2)(1), Mumbai</b>	Vs	<b>Euro Pratik Ispat India Private Limited, Andheri East, Mumbai</b> Gala No. 216, Building No. 3B Rahul Mittal Industrial Estate Kurla Road Andheri East Maharashtra - 400059 <b>[PAN: AAACH3923Q]</b>
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>

Assessee by :	Shri R.B. Doshi, A/R
Revenue by :	Shri Biswanath Das, CIT, D/R

सुनवाई की तारीख/Date of Hearing : 24/10/2024  
घोषणा की तारीख /Date of Pronouncement: 06/11/2024

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the revenue is preferred against the order dated 14/06/2024 passed by the NFAC, Delhi [hereinafter 'the Id. CIT(A)'], pertaining to AY 2020-21.

2. The grievance of the revenue is that the Id. CIT(A) erred in deleting the disallowance made by the AO of Rs. 24,65,08,920/- u/s 68 of the Act and further erred in deleting the disallowance of Rs.1,45,64,970/- being interest paid on the alleged unsecured loan.

3. Representatives of both the sides were heard at length. Case records carefully perused and with the assistance of the Id. Counsel, we have carefully perused the relevant documentary evidence brought on record in the light of Rule 18(6) of the ITAT Rules, 1963.

4. Briefly stated the facts of the case are that the assessee filed its return of income on 31/12/2020 declaring total income of Rs.47,08,25,890/-. The return was selected for complete scrutiny on account of large difference in the opening stock of current year and closing stock of previous year. The statutory notices were accordingly issued and served upon the assessee.

5. During the course of scrutiny assessment proceedings, the assessee was asked to furnish complete details of unsecured loans from the following parties:-

Details of loans, deposits and advances taken from a person other than financial institution							
Sl No	Name of the person	PAN	Opening Balance	Amount received	Amount paid	Interest credited if any	Closing balance
1	Sai Baba Finvest Private Ltd	AANC S8274N	124242955	96000000	221247027	9478973	8474901
2	Hari vintrade pvt	AACC H3522 M	0	20859170	20868261	90906	81815
3	Bengal Credit Corporation Pvt. Ltd.	AABC B2887 N	39750511	27500000	67539507	2889958	2600962

4	Prince dealtrade pvt t. Ltd.	AAFCP 3539B	0	64999750	65011039	112890	601
5	Cemfil enterprises limited	AAAC V7056J	0	16500000	9962	99616	16589655
6	Dwarika's sons esta te pvt ltd	AABC D1968 Q	0	6400000	2702	27025	6424322
7	Pinnacle capital s	AAAC P7356F	0	18500000	111107	1111069	19499962
8	Sukhmehar finance private limited	AACCS 1958A	0	30750000	196522	1965218	32518696
9	Valuepitch e techno logies pvt. Ltd.	AAECS 0591F	0	5000000	35556	355562	5320006
10	Waltaz commoditie s private limited	AABC W214 5G	0	42900000	23157962	2579622	22321660

6. The assessee was asked to furnish ITR of the lender/creditor, bank statement of the assessee reflecting payment of interest, bank statement reflecting the receipt of loan, ledger details of creditors & bank statement of the lenders. In addition, the AO also issued notices u/s 133(6) of the Act to all the above-mentioned creditors asking them to furnish their tax details, financial statements and bank statements. The assessee furnished completed details as sought for by the AO. Eight creditors responded to the notices received u/s 133(6) of the Act and furnished copy of the bank statement, their tax returns, financial statements and other details asked by the AO. However, no response was received from Sukhmehar Finance Pvt. Ltd. and Value Pitch e-technology Pvt. Ltd..

6.1. After perusing the details mentioned by the assessee and also submitted by the creditors, the AO formed a belief that the creditors do not have the capacity to lend the impugned money to the assessee. The AO also questioned their creditworthiness and finally came to the conclusion that the assessee has grossly failed to discharge the initial onus cast upon it by the provisions of Section 68 of the Act and made the addition of Rs. 24,65,08,920/- u/s 68 r.w.s. 115BBE of the Act and further disallowed Rs.1,45,64,970/- being interest claimed on unsecured loans.

7. The assessee carried the matter before the Id. CIT(A) and vehemently argued that the assessee has furnished all the details required by the AO and the AO, without making any independent enquiry has simply commented on the financials of the impugned creditors and came to the conclusion that the creditors do not have the capacity to lend money. After considering the facts and the submissions, and after going through the financial statements of the creditors, the Id. CIT(A) was of the opinion that the assessee had submitted sufficient documents to discharge its burden of proof u/s 68 of the Act. The Id. CIT(A) further observed that the parties who lent money were independent and were not related to the assessee and they are NBFCs who are into the money lending business for many years. The Id. CIT(A) further observed that the AO ought to have conducted independent enquiries to shift the burden of proof from him to the assessee by countering the evidence submitted by the assessee. The Id. CIT(A) concluded by holding that the AO's action and arbitrary inference based on some factors which are not correlating in nature, was unjustified and

deleted the addition made on account of Section 68 of the Act and the consequent interest disallowance.

8. Before us, the Id. D/R strongly supported the findings of the AO and read the operative part.

Per contra, the Id. Counsel for the assessee reiterated what has been stated before the lower authorities.

9. We have given a thoughtful consideration to the orders of the authorities below.

10. The six parties under dispute are as under:-

SN	Party Name	Amount (Rs.)	Interest (Rs.)
1	Sai Baba Finvest Pvt. Ltd.	9,60,00,000/-	94,78,973/-
2	Hari Vintrade Pvt Ltd.	2,08,59,170/-	90,906/-
3	Bengal Credit Corporation Pvt. Ltd.	2,75,00,000/-	28,89,958/-
4	Prince Dealtrade Pvt. Ltd.	6,49,99,750/-	1,12,890/-
5	Sukhmehar Finance Pvt Ltd	3,07,50,000/-	19,65,218/-
6	Dwarika's Sons Estate Pvt. Ltd.	64,00,000/-	27,025/-
<b>Total</b>		<b>24,65,08,920/-</b>	<b>1,45,64,970/-</b>

11. In response to the specific queries, the assessee submitted the following documents before the AO:-

S. no.	Party Name	Confirmation	Ack. of income tax return	Computation of income	Relevant extract of Audit report	Extract of bank statement	Affidavit of director of lender company
1	Sai Baba Finvest Pvt. Ltd.	43 & 44	45	Not available	46 to 49	50 to 60 (No cash deposits)	61 to 64. Source also explained by lender
2	Hari Vintrade Pvt Ltd.	65	66	67	68 to 71	72 to 79 (No cash deposit)	80 to 82. Source also explained by lender
3	Bengal Credit Corporation Pvt. Ltd.	83 & 84	85	Not available	86 to 88	89 to 95 (No cash deposits)	96 to 99. Source also explained by lender
4	Prince Dealtrade Pvt. Ltd.	100 & 101	102	103	104 to 107	108 to 118 (No cash deposits)	119 to 121. Source also explained by lender
5	Sukhmehar Finance Pvt Ltd	122	123	Not available	124 to 126	127 to 134 (No cash deposits)	135 & 136. Source also explained by lender
6	Dwarika's Sons Estate Pvt. Ltd.	137	138	Not available	139 to 141	142 (No cash deposits)	143 (Source declaration)

12. Let us now analyze each lender and the reasons given by the AO for not accepting the same as genuine loan.

(i) **Sai Baba Finvest Pvt. Ltd.:-** This company has given a loan of Rs.9.60 Crores. The confirmation is placed at page 43 of the paper book wherein the loan creditor has confirmed the transactions. Page 45 is its return of income for AY 2020-21, where the returned income is Rs.1.14 Crores. This company has free reserves of Rs.42.26 Crores as per the balance sheet placed at page 46 and total revenue from operations of Rs. 2.71 Crores as per the P&L account at page 47 of the paper book. The reasons given by the AO is that on the date on which this company gave money to the assessee, it had negative balance in its bank account. A perusal of the bank statement shows that the money has been transferred through RTGS and if the balance is negative, means that this company is availing some credit facility from the bank otherwise it is impossible for any bank to honor the transactions if there is no fund in the bank account. Therefore, the allegation of the AO is baseless and considering the beneficiaries of this company, we are convinced that it has more than sufficient funds to lend money to the assessee.

(ii) **Hari Vintrade Pvt. Ltd. :-** This company has given Rs. 2,08,59,170/-. The confirmation is at page 65 of the paper book where the transactions have been confirmed. The return of income for AY 2020-21 is at page 66 where the returned income is at Rs.1.18 Crores. Capital and fee reserve of this company is Rs.48.70 Crores as the per the balance sheet at page 68 and revenue from operations as per the P&L account is Rs.1.34 Crores. The only reason for not accepting these transactions is that on 20/04/2019, the assessee paid Rs.30 Lakhs to this company and this company paid Rs.49.99 Lakhs to Prince Dealtrade Pvt. Ltd. and Prince Dealtrade Pvt. Ltd., in turn paid to the assessee Rs.49.99 Lakhs. According to the AO, the assessee has circulated its own

money in its account. We fail to understand how these transactions can be treated as the unaccounted/unexplained money of the assessee for making addition u/s 68 of the Act. The reasons given by the AO are baseless.

**(iii) Bengal Credit Corporation Pvt. Ltd.:-** This company has given Rs.2.75 Crores. The transaction is confirmed as per confirmation at page 83 of the paper book. Page 85 of the return of income for AY 2020-21 where the returned income of this company is Rs.29.19 Lakhs. The total capital and free reserves of this company is Rs.43.09 Crores and the revenue from operation is Rs.1.38 Crores. The reasons given by the AO are insufficient bank balance. Again, we fail to understand that if the assessee has insufficient bank balance, then why would the bank honor the transactions when the same is made through RTGS. It appears that the AO has failed to recognize the facts that these lenders are NBFCs who must be enjoying credit facilities from their respective banks. Further the AO observed that this company has repaid the assessee's own money and inferred that the assessee's own money has been routed as a loan. We fail to understand, how this inference can make additions u/s 68 of the Act. The flimsy reasons given by the AO are not accepted.

**(iv) Prince Dealtrade Pvt. Ltd.:-** This company has given Rs.6,49,99,750/-. The transactions have been confirmed as per the confirmation at page 100 of the paper book, page 102 is the return of income for AY 2020-21 where the returned income is Rs.1.65 Crores. Capital and free reserves of this company is Rs.53.82 Crores as per the balance sheet at page 104 and the revenue from operations is Rs.1.88 Crores as per P&L account at page 105 of the paper book. Once again, the AO has not accepted the transactions as genuine for the reason that

the amount first came to Hari Vintrade Pvt. Ltd., then it was transferred to Prince Dealtrade Pvt. Ltd., from where money went to the assessee. So, according to the AO it was assessee's own money. We do not find any merit in such inference drawn by the AO.

(v) **Sukhmehar Finance Pvt. Ltd.:-** It has given Rs.3,07,50,000/-. The transactions have been confirmed at page 122 of the paper book to page 123 is the return of income for AY 2020-21 where the returned income is Rs. 1.12 Crores. The capita and free reserves are at Rs.67.08 Crores as per the balance sheet at page 124 and the operations from revenue is Rs.7.22 Crores as per P&L account at page 125. The reasons given by the AO are that it has very less returned income and it has not responded to the notice u/s 133(6) of the Act. We find that the assessee at very first instance informed the AO that this company has not received any notice u/s 133(6) of the Act and further along with the confirmation the financial statements and banks statements were furnished before the AO. Therefore, the allegations made by the AO are without any basis.

(v) **Dwarika's Sons Estate Pvt. Ltd.:-** Loan given of Rs.64,00,000/-. The reasons given for not accepting the loan given by this company are that this company is found to be having very low revenue from operations and the income as per the ITR also does not justify the large loan amount and the bank statement show that this company received money from some other company before lending money to the assessee. The loan transaction has been confirmed as per the confirmation on page 137 of the paper book. Now, the return of income for this company for AY 2020-21 is only Rs.28,983/- but it had capital and reserves of Rs.2.34 Crores that revenue from operations at Rs.74.16 Lakhs. The

transactions have been done through RTGS reflected in the bank statement.

13. Considering the factual matrix hereinabove, we are of the considered view that each and every lender had sufficient own funds to give the impugned loans to the assessee supported by all the documentary evidence necessary for discharging the initial onus cast upon the assessee by the provisions of Section 68 of the Act. Further each loan has been confirmed and supported by the affidavit of the directors of the companies which have not been proved to be false. Therefore, considering the vortex of evidence, we have no hesitation to hold that the assessee has successfully discharged the initial burden cast upon it by the provision of Section 68 of the Act. Therefore, we do not find any reason to interfere with the findings of the Id. CIT(A). The impugned additions of Rs.24,65,08,920/- made u/s 68 of the Act stands deleted and since the loan amount has been accepted as such, the disallowance of interest of Rs.1,45,64,970/- is also deleted.

14. In the result, appeal of the revenue is dismissed.

**Order pronounced in the Court on 6<sup>th</sup> November, 2024 at Mumbai.**

*Sd/-*  
(SANDEEP SINGH KARHAIL)  
JUDICIAL MEMBER

*Sd/-*  
(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, Dated 06/11/2024

*Sd/-*

**10**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai