

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE,
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.1352/Del/2024
(ASSESSMENT YEAR: 2018-19)

Flexo Foam Private Limited, 838, New Rajinder Nagar, Delhi-110060 PAN:AAACF0242Q (Appellant)	Vs .	ACIT, Central Circle-14, New Delhi-110055 (Respondent)
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Assessee by	Shri R.S. Singhvi, CA and Shri Rajat Garg, CA
Respondent by	Shri Ram Krishan Meena, Sr.DR

Date of Hearing	07/11/2024
Date of Pronouncement	22/11/2024

ORDER

PER VIMAL KUMAR, JM:

1. The appeal of the Assessee is against order dated 08/02/2024 of Learned Commissioner of Income Tax (Appeals)-26, New Delhi [hereinafter referred to as 'Ld. CIT(A)'] arising out of Assessment Order dated 22/09/2021 of Learned Deputy Commissioner of Income Tax, Central Circle-14, Delhi (herein after referred as 'Ld. AO') u/s 143(3) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] for the Assessment Year 2018-19.

2. Brief facts of case are that on 29/09/2018 assessee filed return of income u/s 139 of the Income Tax Act, 1961 (hereinafter referred as 'the Act') showing total income at Rs.0. In return of income assessee had shown income u/s 155JB of the Act of Rs.97,25,200/- . Notice u/s 143(2) of the Act was issued on 26/09/2019. A survey operation u/s 133A was carried out on 13/12/2017 at the business premises of assessee. In course of survey certain loose papers/documents were found. The case was centralized with office of the PCIT, Central Circle-14, New Delhi vide order u/s 127 of the IT Act was passed on 18/12/2021 by the Principal Commissioner of Income Tax-1, New Delhi. In order to call various details/information to complete the assessment proceedings, a questionnaire along with notice u/s 142(1) of the Act was issued on 27/02/2021. Thereafter, more notices u/s 142(1) of the Act were issued during the course of assessment proceedings. Appellant/assessee filed partial replies are as under:

Date of Notice	Notice under section	Date compliance fixed for	Response from assessed	Brief note on reply filed by the assessee
27/02/2021	142(1)	05/03/2021	No reply received	N.A.
05/03/2021	142(1)	09/03/2021	No reply received	N.A.
		15/03/2021	Reply received	Partial details submitted
		16/03/2021	Reply received	Partial details submitted
23/03/2021	142(1)	26/03/2021	Reply received on 24/03/2021	Details submitted
01/04/2021	142(1)	05/04/2021	Reply received on 07/04/2021	Details submitted
28/04/2021	142(1)	03/05/2021	Reply received on 29/04/2021	Details submitted

11/05/2021	142(1)	21/05/2021	Reply received on 13/05/2021	Details submitted
15/05/2021	142(1)	19/05/2021	No reply received	N.A.
11/06/2021	142(1)	14/06/2021	No reply received	N.A.
23/03/2021	142(1)	26/03/2021	Reply received on 24/03/2021	Details submitted
		03/07/2021	Reply received	Against notice dated 15/05/2021
09/07/2021	142(1)	14/07/2021	No reply received	N.A.
		15/07/2021	Reply received	Against notice dated 09/07/2021 & 28/04/2021.
30/08/2021	142(1)	03/09/2021	Reply received on 03/09/2021	Details submitted

3. On completion of proceedings, addition of Rs.57,36,614/- was made by Learned AO vide order dated 22/09/2021.

4. Appellant/assessee preferred appeal before Learned CIT(A) which was partly allowed vide order dated 08/02/2024.

5. Being aggrieved appellant/assesse, preferred present appeal.

6. Learned Authorized Representative for appellant/assessee submitted that Ld. CIT(A) erred in upholding addition of Rs.7,50,000/- made on the alleged ground of unexplained expenditure u/s 69C of the Income Tax Act, 1961 without appreciating that no interest was charged or paid, the presumption about any such interest is highly arbitrary and misconceived. Learned AO alleged unaccounted interest paid to Sh. Ashok Kumar Jain which was unjustified as Ashok Kumar Jain had not been paid any interest. Copy of ledger account of Sh. Ashok Kumar Jain in the

books of the Appellant assessee company were filed. Copy of Re-assessment Order dated 22/03/2022 passed in the case of Sh. Ashok Kumar Jain for A.Y.2014-15 were also filed. Moreover, Ashok Kumar Jain in affidavit dated 06/11/2024 specifically stated that:

“1. That Mr. Rupesh Jain; Managing Director of M/s Flexo Foam Private Limited, now deceased by Covid-19, was more than a brother to myself.

2. That on account of an urgent requirement of fund in his business, I gave to his company an amount of Rs.25,00,000/- on 24/04/2015 vide RTGS from my personal account (A/C No.026393700002944) held in Yes Bank, Sector-14, Gurgaon as a help and not as a loan on payment of any interest.

3. That M/s Flexo Foam Private Limited returned back this amount of Rs.25,00,000/- by RTGS on 13/10/2017 to my account (A/C no.2549130005770) held in HDFC Bank Ltd., Palam Vihar, Gurgaon but affected payment of interest. However, I outrightly rejected this offer of interest as Mr. Rupesh Jain was more than a younger brother to me.

4. That I swear on oath that the amount of Rs.25,00,000/- given to M/s Flexo Foam Private Limited on 24/04/2015 interest-free and it was given purely on account of deep personal relations with Sh. Rupesh Jain.

5. That M/s Flexo Foam Private Limited did neither ever pay nor did I ever received any amount as interest against the payment of Rs.25 lakhs to M/s Flexo Foam Pvt. Ltd.”

7. Learned Authorized Representative for Department of Revenue submitted that Learned AO and Learned CIT(A) have correctly made addition of Rs.7,50,000/- on account of interest.

8. From examination of record in light of aforesaid rival contention, it is crystal clear that during survey at the premises of assessee a rough sheet was found stating that the assessee company on 24/04/2015 had received a loan of Rs.25,00,000/- from Sh. Ashok Kumar Jain through RTGS and same was returned back

on 13/10/2017. In the assessment proceedings, it was explained that piece of paper contained figures of interest free loan received from and repaid to Sh. Ashok Kumar Jain. In respect of noting's relating to interest of Rs.7,50,000/- for 2.5 years was in fact never paid to Ashok Kumar Jain and the appellant/assessee has made such noting only for reference purpose. Copy of ledger account of Sh. Ashok Kumar Jain in the books of Appellant Company is at page 27 of PB. Copy of Re-assessment Order dt. 22/03/2022 passed in the case of Sh. Ashok Kumar Jian for AY 2014-15 is at page 28-29 of PB. Ashok Kumar Jain in affidavit dated 06/11/2012 had denied receipt of any interest.

9. In view of the above material facts i.e., non-reference of payment of interest in the copy of ledger account of Sh. Ashok Kumar Jain, reassessment order dated 22/03/2022 in case of Ashok Kumar Jain and affidavit dated 06/11/2024, findings of Ld. CIT(A) in para No.6.2.1 that no evidence in support of claim of appellant regarding not taking interest are not just, fair and reasonable. Therefore, impugned order dated 08/02/2024 upholding addition of Rs.7,50,000/- is set aside.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this day 22nd November, 2024.

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Dated: 22/11/2024

Pk/sps

Sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI