

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH
MUMBAI**

**BEFORE: SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
&
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

**ITA No.612/Mum/2018
(Assessment Year :2009-10)**

**ITA No.568/Mum/2018
(Assessment Year :2010-11)**

&

**ITA No.569/Mum/2018
(Assessment Year :2011-12)**

Dy. Commissioner of Income Tax-25(1) Mumbai	Vs.	M/s. Tirupati Developers 52-C-Wing, 2 nd Floor, Raj Industrial Complex PR, Military Road Marol, Andheri(E) Mumbai-400 059
PAN/GIR No.AAEFT9672M		
(Appellant)	..	(Respondent)

Assessee by	Shri Vishwas Mehendale
Revenue by	Shri R.R.Makwana
Date of Hearing	29/11/2024
Date of Pronouncement	29/11/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

In the aforesaid case there was a difference of opinion between the ld. Judicial Member and ld. Accountant Member in the aforementioned appeal filed by the Revenue. Accordingly, u/s.255(4) of the Act, the Hon'ble President had appointed ld. Third Member to decide the issue. The questions for which the matter was referred were as under:-

"1) Whether meticulous paper work to prove the transaction in question by bringing on record PAN, bank statement, copy of ledger account are sufficient to justify the alleged transactions of bogus unsecured loans in the absence of explaining the nature and source of credit, particularly when lender's entities in question are found to be not existing, is enough to discharge the onus under section 68 of the Act.?"

2) Whether when the notice issued under section 133(6) of the Act received back with the report that no such entities are in existence and the assessee has failed to discharge the onus to produce the lender parties before the AO as required under section 68 of the Act, the subsequent repayment by the assessee qua the alleged bogus loans is enough to grant the relief to the assessee?"

3) Whether, in the facts and circumstances of the case, the assessee can be considered to have discharged the onus placed upon him u/s. 68 of the Act to prove the cash credit ?"

2. In all these appeals, the substantive issue involved was addition u/s.68 for the addition of Rs.3.1 Crores for the A.Y.2009-10; Rs.2.29 Crores for A.Y.2010-11; and Rs.95 lakhs for A.Y.2011-12. The ld. CIT(A) had deleted the addition for all the years against which Revenue had come in appeal before the Tribunal. The ld. Judicial Member had reversed the finding of the ld. CIT(A) citing various reasons and allowed Revenue's grounds. However, ld. Accountant Member in his separate order had remitted the matter back to the file of the ld. AO after giving certain directions. The ld. Third Member vide order dated 10/11/2024 has confirmed the finding and order of the ld. Judicial Member's allowing the Revenue's appeal in ITA Nos. 612/Mum/2018, 568/Mum/2018 and 569/Mum/2018. Once the order of the ld. Judicial Member has been confirmed by the ld. Third Member, accordingly the

observation and the finding of the Id. Judicial Member is held to be majority judgment and consequently, the grounds raised by the Revenue in all the three years are allowed and the order of the Id. CIT(A) is reversed. Addition thus made by the Id. AO is confirmed.

3. In the result all the three appeals of the Revenue are allowed.

Order pronounced on 29th November, 2024.

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

Mumbai; Dated 29/11/2024
KARUNA, *sr.ps*

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai