

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

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SH. VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 2017/Del/2024  
Assessment Year: 2016-17

<b>ACIT, CIRCLE 10(1), NEW DELHI ROOM NO. 419, 4<sup>TH</sup> FLOOR, C.R. BUILDING, NEW DELHI – 2</b>	<b>Vs</b>	<b>HINDUKUSH CONSTRUCTION PVT. LTD. UNIT NO. 143, FIRST FLOOR, C-28, SECTOR-33, TRIBHUVAN COMPLEX, ISHWAR NAGAR, MATHURA ROAD, SOUTHWEST, DELHI – 68 (PAN: AABCH3439E)</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Rajesh Kumar Dhanesta, Sr DR
Respondent by	None

Date of hearing:	28/11/2024
Date of Pronouncement:	03/12/2024

**ORDER**

**PER SHAMIM YAHYA, AM:**

The Revenue has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, New Delhi dated 27.02.2024, relating to assessment year 2016-17 on the following grounds:-

1. *Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred, in deleting the addition of Rs, 50.00.000:uA> 68 of the Act*

*on account of "unsecured loan" and ignoring the fact that the assessee has merely furnished the Bank Statement & ITR of the entity and thus, in absence of satisfactory documentary evidences has failed to prove the genuineness & creditworthiness of the transaction and nature & source thereof remained unexplained?*

2. *Whether on the facts and in the circumstances of the case and in law, the Ld, CIT(A) has erred, in deleting the disallowance of Rs. 50,00,000/- u/s 68 of the Act, ignoring the fact that the assessee has failed to discharge the primary<sup>1</sup> onus cast upon him to prove the nature & source of such loan/advances and genuineness& creditworthiness of the transaction, in view of the decision of Horrible Apex Court in the case of Rupal Jain Vs, CIT(2023)?*
3. *Whether on the facts and in the circumstances of the case and in law. the Ld. CIT(A) has erred, in deleting the disallowance of Rs. 26,93.388/-, ignoring the fact that the assessee has failed to produce proper bills & vouchers before the AO even after having ample time with it?*
4. *Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred, in deleting the disallowance of Rs. 99,05,192/- on account of excess depreciation claimed, ignoring the fact that the assessee has drastically increased the opening WDV for the year under consideration from the closing WDV of preceding year i.e. AY 2015-16 without providing documentary evidences and having no business activity from the machine put to use on which depreciation was claimed?*
5. *Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the disallowance of Rs. 1,75,98,580/- by completely ignoring the recommendation made by the AO in his Remand Report as per the provisions of Rule 46A?*

2. None appeared on behalf of the Assessee, despite issue of notice. However, it is noticed that notice has been received back from the postal authorities. In view of the aforesaid factual matrix, we are deciding this appeal of the Revenue, *exparte* qua assessee, after hearing the Ld. AR and perusing the records.

3. At the time of hearing, Ld. DR submitted that the tax effect in this is Rs. 58,18,619/- and thus, in view of the CBDT's Circular No.09/2024 dated 17.09.2024, the appeal of the Revenue is not maintainable.

4. In view of the above position, we deem it fit and proper to dismiss the appeal of the Revenue in the light of the latest Circular No.09/2024 of the CBDT dated 17.09.2024, as not maintainable.

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

Order pronounced on 03/12/2024.

Sd/-  
**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

\*NEHA/SR Bhatnagar”

Date:- 03.12.2024

**Copy forwarded to:**

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

Sd/-  
**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI