

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRI SONJOY SARMA, JM**

**ITA Nos.158 & 159/KOL/2024  
(Assessment Years: 2014-15 & 2015-16)**

**DCIT, CC-1(3),**  
110, Shantipally, Aaykar  
Bhavan, 3rd Floor,  
Kolkata-700107

**RAIC Integrated Sponge**  
Power Private Limited  
**Vs.** 25 Ganesh Chandra Avenue,  
Kolkata-700013, West Bengal

**(Appellant)**

**(Respondent)**

**PAN No. AACCB3462A**

**Assessee by** : Shri Siddarth Jhajharia, AR  
**Revenue by** : Shri Pradip Kumar Biswas, DR

**Date of hearing:** 19.11.2024  
**Date of pronouncement :** 09.12.2024

**ORDER**

**Per Rajesh Kumar, AM:**

These are appeals preferred by the Revenue challenging the order of the Id. Commissioner of Income-tax (Appeals), Kolkata-20, (hereinafter referred to as the "Ld. CIT(A)") dated 12.12.2023 & 08.12.2023 for the AY 2014-15 & 2015-16.

02. Issue raised in ground no. 1 in ITA Nos.158 & 159/KOL/2024 for A.Y. 2014-15 and 2015-16 is against the deletion of addition of Rs. 2.00 crore & 5.35 cr. respectively by the Ld. CIT(A) as made by the AO on account unsecured loans.

03. The facts in brief are that the assessee filed its return of income on 26.11.2014, declaring total income of ₹1,33,70,270/-. The case of the assessee was selected for scrutiny and statutory notices were duly issued and served upon the assessee. The assessee is engaged in the business of manufacture of sponge iron and steel goods. The Id. AO during the course of assessment proceedings observed that the assessee has taken a loan of ₹2.00 crores on 13<sup>th</sup> April, 2014 from Steelex Electrocast Pvt. Ltd. and accordingly the assessee was called upon to provide details of this loan including squared up loans as well as share application money received during the year. The assessee furnished the name, address, balance sheet of the lender, loan confirmation as well as bank statement to prove the identity, creditworthiness of the lender and genuineness of the transactions. According to the Id. AO, the loan amount of ₹ 2.00 crore was credited to the assessee on 28.02.2014 through Bank of Baroda, which was received from the Bhasker Steel on the same day and the AO on this basis came to the conclusion that this is an accommodation entry. The said amount was treated as unexplained money in the hands of the assessee and added to the total income of the assessee in the assessment framed u/s 143(3) vide order dated 29.12.2017 making the addition of ₹2 crores besides making other additions which are in challenge before us.

04. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee, which is reproduced in para 4.3 as under:-

*"4.3(a) I have carefully considered the facts of the case and submission of the appellant. Assessment order does not provide sufficient reasons for making the addition u/s.68 of the I.T. Act. Only general comments regarding low income, huge reserves & surplus and nominal fixed assets of the creditors have made in the assessment order. Another point which has been held against the*

creditors is that they have transferred funds to the assessee company, immediately after receiving identical funds from some other sources. For this reason, A.O. suspects that the creditors are merely involved in arranging unsecured loans to the assessee company. Although the creditors had submitted all relevant documents relating to the loan transaction and A.O. has not found any discrepancy in those documents, still A.O. desired their personal presence. In this regard, appellant submits that if presence of the creditors was so important, A.O. should have made his own efforts by issuing summons and asking them to come to the office for personal deposition. In this regard I agree with assessee's submission that A.O. has not made any efforts from his side to call the creditors for personal deposition. There are several judgements where it is held that non-compliance to summons/notice u/s.131/133(6) of the I.T. Act, 1961 would not be the sole ground for making additions u/s.68 of the I.T. Act. In this case, it is noticed that the creditor has sent all the relevant documents and A.O. has not been able to point out any discrepancies in those documents. In view of the above discussion, non-presence of the director of the creditor company would not have any adverse implication in the present case, as all necessary documents were submitted and A.O. has not pointed out any discrepancies in those documents.

4.3(b) Now coming to the creditworthiness of the creditors, it is noticed that contrary to the general observations of the A.O. regarding the state of the Jamakharchi Company, the creditor companies appears to have genuine business and the funds transferred by them are fully explained. M/s. Steelix Electrocast Pvt. Ltd. is a manufacturing company. It is showing huge turnover of Rs.160 crores in the current year as well as turnover of Rs.189 crores in the succeeding year. Contrary to the general observations of the Ld. A.O., this company has tangible assets of Rs.13 crores. Another important aspect is that it has got Long Term Bank Finance of Rs.13 crores. Bank loans are sanctioned after due diligence and on the basis of the assets of borrower and financial health of its on-going business. Its balance sheet is more than 31 crores. Under the circumstances, loan amounts of Rs.2 crores is within the financial capacity of the said creditor. This creditor is doing genuine manufacturing business and generating large turnover.

*4.3(c) In view of the above discussion, it is apparent that the loans/advance received from the creditors are fully explained. Identity and creditworthiness of the lenders are established. TDS has been deducted on the interest paid. Subsequently, a search & seizure action was conducted at the premises of the assessee. No incriminating evidences appear to have been found in that search. Even A.O. has not referred to any specific evidence, on the basis of which he has formed an adverse opinion. Identities and creditworthiness of the lenders are established. There is nothing on record to suspect the genuineness of the loans. Lender is doing genuine business and their financials are strong. There is no justification for making addition in respect of loans/advances u/s.68 of the I.T. Act. Consequently, A.O. is directed to delete the addition of Rs.2,00,00,000/-.*

*4.3(d) In proceedings u/s.153A, assessee had offered additional income of Rs.1,10,00,000/- by filing revised computation. Additional income includes the addition of Rs.21,45,000/- on account of share capital received. As the assessee has accepted the said addition and paid due taxes during search assessment proceedings, addition of Rs.21,45,000/- is upheld in principle.”*

05. After hearing the rival contentions and perusing the materials available on record, we find that the Id. CIT (A) has recorded a very comprehensive finding to the effect that the assessee has explained before the Id. AO identity and creditworthiness of the lender, genuineness of the transactions. We also observe that in this case the assessee is a very big company having turnover of ₹ 149.58 crores during the relevant financial year with a net profit of more than Rs. 1.00 Crore. The secured loans taken by the assessee and outstanding at the year-end were of more than Rs. ₹14.00 crores from the banks. We also note that interest was paid on the said loan after deduction of /tax at source which was deposited into the Govt treasury. Even the loan was repaid fully by the assessee. We even note that Id CIT(A) has recorded a finding that AO has not done any enquiry at his end of calling the loan creditor for personal deposition.

The Id. CIT(A) even noted that AO has not pointed any defect in the documents filed and furnished by the assessee except the fact that similar amount was credited in the bank account of the lender prior to advancing money to the assessee. After dealing with each and every aspect of the Id CIT(A) recorded came to the conclusion that the assessee has proved the identity and creditworthiness of the creditors as well the genuineness of the transactions of loan. Considering these facts we are inclined to uphold that the order of the Id. CIT (A) who has passed a very reasoned order by dismissing the appeal of the revenue. The appeal of the assessee is allowed.

#### **ITA No. 159/Kol/2024A.Y.2015-16**

06. The issue raised in this appeal is similar to one as decided by us in ITA No. 158/Kol/2014-15. During the year the assessee has raised unsecured loans of Rs. 5,35,00,000/- from four loan creditors namely Streelex Electrocast Pvt Ltd. Rs. 25,00,000/-, Mehra Securities Pvt Ltd Rs. 1,10,00,000/-, Ramdiha Mercantile Pvt Ltd. 2,00,00,000/- and Gagan Ferrotech Ltd(Trade advance). The remaining facts qua these loans are same and Id CIT(A) discussed the facts and reasons for deletion of addition in great detail in the appellate order and therefore our decision in ITA No. 158/Kol/2024 would, mutatis mutandis, apply to this appeal as well. The appeal of revenue is dismissed.
07. In the result, both the appeals of the revenue are dismissed.

Order pronounced in the open court on 09.12.2024.

Sd/-  
(SONJOY SARMA)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 09.12.2024

*Sudip Sarkar, Sr.PS*



Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata