

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH**  
**BENCH 'B' CHANDIGARH**

**BEFORE: SHRI MAHAVIR SINGH, VICE PRESIDENT**  
**AND SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER,**

**आयकर अपील सं./ITA No. 676/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2017-18

The DCIT, Central Circle-2, Ludhiana.	Versus	Malbros International Pvt.Ltd., Faridkot.
स्थायी लेखा सं./PAN /TAN No: AADCM7203R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT Sr. DR  
तारीख/Date of Hearing : 30.12.2024  
उद्घोषणा की तारीख/Date of Pronouncement : 30.12.2024

**VIRTUAL HEARING**

**आदेश/ORDER**

**PER MAHAVIR SINGH, VP**

This appeal by revenue is arising out of the order of ld. CIT(A)-5 Ludhiana in appeal No. 10308/(302)CIT(A)-5/Ldh/2019-20 order dated 30.03.2024.

2. The only issue in this appeal of Revenue is as regards to the order of CIT(A) deleting the addition of unexplained cash credit of

Rs.1.50 Cr added under Section 68 of the Act. For this, Revenue has raised the following Ground Nos. 1 and 2 :

*“1. Whether upon the facts and circumstances of the case and in law, the ld. CIT(A) erred in deleting addition of Rs.1,50,00,000/- on account of unexplained cash credit under Section 68 of the Income Tax Act ?*

*2. Whether upon the facts and circumstances of the case and in law, the ld. CIT(A) erred in deleting the addition of Rs.1,50,00,000/- by holding that the assessee has proved the genuineness of transaction and credit worthiness of the loaner ?”*

3. The brief facts are that the assessee is a Private Limited Company and filed its return of income for the relevant assessment year 2017-18 on 31.10.2017. During the course of assessment proceedings, the AO noticed that the assessee has received unsecured loan of Rs.1,82,31,394/- from Smt. Dimpy Malhotra. The AO required the assessee to explain the unsecured loan of Rs.1.50 Cr received from Smt. Dimpy Malhotra in terms of the provisions of Section 68 of the Act. The AO noted that the assessee failed to prove the genuineness of transaction and credit worthiness of unsecured loan and hence he added this sum of Rs.1.50 Cr by treating the same as unexplained cash credits. The AO also taxed the same under Section 115BBE of the Act. Aggrieved the assessee preferred appeal before CIT(A).

4. The CIT(A) deleted the addition by observing in para 5.2.3 sub-para (xi) and (xii) as under :

(xi) With this discussion on legal aspects, the factual matrix in the case of Dimpy Malhotra is discussed as under:

Addition of Rs. 1,50,00,000/- was made out of loan given by Dimpy Malhotra. The reason mentioned was that Rs.150,00,000/- were received from Shri Arun Malhotra and Sh Arun Malhotra has filed return declaring very low Income. At the same time the AO has mentioned that Dimpy Malhotra has filed return declaring income of Rs.44,83,960/-and exempt income of Rs. 30,08,527/-. Total loan given was 1,82,31,394/-. Amount received from Arun Malhotra has not been accepted by **the** AO only **on** the basis **of low** returned income **of** Arun Malhotra. Thus, there can not a strict interpretation of creditworthiness vis a vis returned income. Also, there is not automatic **co**-relation of creditworthiness with returned income. It has to be considered with respect to facts of individual case and result of enquiry. As regards, Arun Malhotra, the AR has brought material on record as well as confirmation that the money received by Sh Arun Malhotra was not a fresh money or loan received but a return of money already advanced.

Further the appellant has provided sufficient evidence of source of source **i.e** Rs.1,50,00,000/- received by said Dimpy Malhotra from Sh. Arun Malhotra. Copy of confirmation along with ITR of said Sh. Arun Malhotra has also been submitted. Furthermore, the appellant has also provided confirmation and copy of ITR of Om Sons Marketing Pvt Ltd.(Rs.90,00,000) and Sh. Parveen Malhotra (Rs.50,00,000) from whom the funds were received by the source of source of the said loan i.e. said Sh. Arun Malhotra. The appellant has also provided PAN detail of Sh. Puneet Ral from whom the source of source (Sh. Arun Malhotra) has received Rs.20,00.000/-. In another case of same group i.e. in the case of Sh Gaurav Malhotra Loan of Rs. 10,00,000/- has been received in the same year. This has been accepted by the AO and no addition was made. Further this reasoning given by the AO for making addition is not convincing and suffer from contradictions. At one hand, AO is stating the total returned income of the lender Dimpy Malhotra is Rs.74,92,487/- (taxable income plus exempt income) but not considering it and not taking any cognizance of it. On the other hand returned income of Arun Malhotra, from whose account money has received by Dimpy Malhotra is low and AO is emphasizing on this aspect. The appellant has even provided source of Arun Malhtora.

(x) In view of above, there appears to be no reason to consider the said credits in the books of accounts of the assessee company as unexplained income under Section 68 of the Income Tax Act, 1961 the said addition is liable to be deleted.

Aggrieved revenue came in appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee has received unsecured loan from Smt. Dimpy Malhotra of Rs.1.50 Cr. The assessee has filed confirmation, copy of Income Tax Return, copy of bank statements evidencing advancing of Rs.1.50 Cr to assessee. The assessee also explained the source from where Smt. Dimpy Malhotra received this amount of Rs.1.50 Cr./ Smt. Dimpy Malhotra received this amount from following :

**Shri Arun Malhotra :**

Assessee's confirmation alongwith Income Tax Return and bank statement was submitted before the AO as well as before CIT(A). Smt. Dimpy Malhotra stated thqt this amount of Rs.1.50 Cr was received from Shri Arun Malhotra. Shri Arun Malhotra in turn received this amount of Rs.1.50 Cr from the following :

- |     |  |              |
|-----|--|--------------|
| i)  | M/s Om Sons Marketing Pvt. Ltd.                        | = Rs.90 lacs |
| ii) | Shri Parveen Malhotra, father<br>of Shri Arun Malhotra | = Rs.50 lacs |

7. The assessee filed the details of M/s Om Sons Marketing Pvt. Ltd. which includes confirmation, copy of Income Tax Return and bank statements and similarly of Shri Parveen Malhotra i.e. copy of confirmation, Income Tax Returns and bank statements evidencing receipt of Rs.50 lacs by Shri Arun Malhotra. Shri Arun Malhotra also received a sum of Rs.20 lacs from Shri Puneet Rai, whose details like PAN details, Income Tax Return and

confirmation and bank statement was filed before AO as well as before CIT(A). We noted that the assessee has received first from Smt. Dimpy Malhotra who in turn received the amount from Shri Arun Malhotra of Rs.1.50 Cr. Shri Arun Malhotra in turn received a sum of Rs.90 lacs from M/s Om Sons Marketing Pvt. Ltd., sum of Rs.50 lacs from Shri Parveen Malhotra and Rs.20 lacs from Shri Puneet Rai. Details to prove the source genuineness of transaction and identity of these parties were filed. It seems that the assessee has proved the source of source as mandated by the provisions of Section 68 of the Act. In view of these factual aspects, we find no infirmity in the order of the CIT(A) who has deleted this addition made by the Assessing Officer of unexplained loans of Rs.1.50 Cr received by assessee from Smt. Dimpy Malhtora. Smt. Dimpy Malhtora has discharged her onus by proving these transactions. With regard to argument made by ld. Sr.DR that these are circular transactions, it is evident that these are circular transactions which goes to prove that source of source is explained. Once source of source is proved, no addition can be made by invoking provisions of Section 68 to the unsecured loan. Assessee is able to demonstrate that the amount of Rs.1.50 Cr received from Smt. Dimpy Malhtora is explained

and hence genuine. We find no infirmity in the order of the CIT(A) and accordingly, this appeal of Revenue is dismissed.

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

Order pronounced on 30.12. 2024.

Sd/-

**( KRINWANT SAHAY )  
ACCOUNTANT MEMBER**

Sd/-

**( MAHAVIR SINGH )  
VICE PRESIDENT**

“Poonam”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar