

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No.1758/KOL/2024
(Assessment Year:2016-17)**

Ranvir Jaluka
BF 66, Salt Lake city, Sector-I,
Near C A P Camp, Salt Lake,
Kolkata-700064, West Bengal

Vs.

ITO Ward, 9(1)
Aaykar Bhavan, P-7,
Chowringhee Square,
Kolkata-700069,
West Bengal

(Appellant)

(Respondent)

PAN No. ACPJ2591L

Assessee by : Shri Rajeeva Kumar, AR
Revenue by : Shri Monalisha Pal Mukherjee,
DR

Date of hearing: 23.01.2025

Date of pronouncement : 31.01.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Id. CIT(A)") dated 16.07.2024 for the AY 2016-17.

02. The only issue raised by the assessee is against the confirmation of addition of ₹20 lacs by the Id. CIT (A) as made by the Id. AO on account of bogus unsecured loans and confirmation of interest thereon amounting to ₹53,330/-.
03. The facts in brief are that the assessee filed the return of income on 21.06.2016, declaring total income of ₹31,29,040/-. The case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148



of the Act on 07.04.2021. The Id. AO called for the necessary evidences from the assessee to proof of identity and creditworthiness of the lender and genuineness of the transactions, which were not furnished by the assessee before the Id. Assessing Officer. The Id. AO from perusal of the said records observed that the assessee has received loan from M/s Fastspeed Realcon Pvt. Ltd. during F.Y. 2015-16, which was repaid during the F.Y. 2017-18 for which the assessee furnished the confirmation from the lender along with the bank statement evidencing the said transaction. According to the Id. AO, the assessee has not furnished the ITR, P & L account and audited accounts of the lender and failed to establish the genuineness of the said loan. The Id. AO noted that M/s Fastspeed Realcon Pvt. Ltd. belonged to Banka Group of companies and providing accommodation entries as evident from the investigation report and statement recorded u/s 132(4) of the Act of Mr. Mukesh Banka during search operation on him. Finally, the loan was added to the income of the assessee by treating the same as unexplained cash credit u/s 68 of the Act in the assessment framed u/s 147 read with section 144B of the Act vide order dated 29.05.2023.

04. In the appellate proceedings, the Id. CIT (A) confirmed the order of the Id. AO by holding that assessee has failed to discharge onus cast upon proving the identity, creditworthiness and genuineness of the transitions of ₹20,53,330/- from M/s Fastspeed Realcon Pvt. Ltd. and therefore, additions were rightly made by the Id. AO.
05. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has borrowed unsecured loan of ₹ 20 lacs from Fastspeed Realcon Pvt. Ltd. a company belonging to Banka Group of companies n F.Y. 2015-16,



which was repaid in F.Y. 2017-18. The assessee has furnished before the Id. AO, the evidences such as name, address, bank statement and confirmation, etc. from the lender besides filing his own balance sheet and other evidences along with bank statement. We note that the said case was reopened on the basis of search on the Banka Group of companies and statements recorded of Mr. Mukesh Banka during the course of search u/s 132(4) of the Act. The undisputed fact which remained uncontroverted is that the loan received by the assessee was repaid in the F.Y. 2017-18 even prior to the reopening of the assessment by the Id. AO on 07.04.2021. In our opinion, money borrowed by the assessee appears to be genuine as the same was used in the business and therefore, repaid subsequently and assessee was in no way beneficiary of the said loan. Moreover, the addition on the basis of the statement of third party cannot be relied as sole ground for making the addition. Considering these facts and circumstances, we are of the view that the order passed by the Id. CIT (A) is not sustainable in the eyes of the law and is accordingly, set aside and the Id. AO is directed to delete the addition. So far as, the addition made by the Id. AO of interest of ₹53,330/- is concerned, the same is consequential to the ground no. 1 and is accordingly, allowed.

06. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 31.01.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated:31.01.2025

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