

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(HYBRID COURT)**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

**I.T.A. No. 215/Asr/2024**  
Assessment Year: 2017-18

Hindvee Small Finance Ltd.,  
925, 9<sup>th</sup> Floor, Mall of Jaipur  
Vashali Nagar, Jaipur, Raj.

Vs.

ITO, Ward 1(3),  
Jammu

[PAN: AACCS 5592E]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. K. L. Moolchandani, Adv.  
Respondent by : Mrs. Neelam Sharma, Sr. D. R.  
Date of Hearing : 26.12.2024  
Date of Pronouncement : 24.02.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of the Id. CIT(A) National Faceless Appeal Centre NFAC (Delhi), passed u/s 250 of the Income Tax Act, 1961 dated 29.12.2023 which has emanated from the order of the ITO, Ward 1(3), Jammu passed u/s 143(3) of the I. T. Act, 1961 dated 26.12.2019.

2. The grounds of appeal taken by the assessee in the memorandum of appeal in form 36 are as follows:

“1. *On the facts and in the circumstances of the case, the Authorities Below have factually and legally erred in not appreciating the facts of the case in right perspective on the following counts:*

(a) *At no stage, the Audited Books as produced by the appellant during the course of hearing of the case were rejected u/s 145(3) of the Act by pointing out any specific discrepancy or mistake. This fact is evident from the Body of the Assessment and Appeal orders. As on date, it is a settled Law that without rejecting book results u/s 145(3) of the Act, no valid addition can be made. The Authorities Below have however ignored this vital fact while dismissing the appeal and confirming the addition of Rs.50,90,194/- on the basis of misconceived presumptions and surmises that the sale proceeds of the Vehicles as shown in the Audited Books were a 'Colorable Device', relying heavily on the judgment of honorable Supreme Court in the case of M/s Mac Dowells & Compay vs. CTO (1985). Such presumptions were totally unfounded for and without any basis in absence of any incriminating material brought on record. Thus such findings of the Authorities Below are factually and legally incorrect and the same deserve to be quashed summarily on this sole ground and addition made on the basis of such findings deserves to be deleted summarily.*

(b) *The Authorities Below did not address the objection of the appellant Company that the provisions of section 68 of the Act were incorrectly invoked in the present case to make the impugned addition of Rs.50,90,194/-. In fact under these provisions, the additions are warranted on account of the un-explained cash credits only, whereas in the present case it is a case of acquisition of un-explained money within the meaning of section 69 of the Act. Thus to this extent the impugned addition of Rs.50,90,194/- is legally incorrect and the same deserves to be deleted on this sole ground. .*

(c) *The Authorities Below did not dispute the sale of the Vehicles a sale proceeds etc. as recorded in the Audited Books at any stage in any manner. Thus the sale of the Vehicles is an admitted fact. In the circumstances, as a natural corollary, the sale proceeds of such vehicles cannot be negated on the basis of presumptions and surmises only treating the same as a Colorable Device in absence of any incriminating material brought on record. Thus the addition so made is factually and legally incorrect and the same deserves to be deleted summarily.*

(d) *The sales of the Vehicles are duly documented and evident from the Registration Certificates (RCs). The purchase of these vehicles was also financed by the Banks. In the circumstances, the turn-over of these vehicles and its sale proceeds cannot be denied on the basis of presumptions and surmises on the plea of colorful device in absence of any clinching incriminating material brought on record. In the circumstances, the addition so made is factually and legally incorrect and the same deserves to be deleted summarily.*

(e) *The Authorities Below have also failed to appreciate the normal Human Psychology of the owners of the Appellant Company. Due to sudden declaration of Demonetization by the Govt, of India, the appellant Company had channelized all its resources to collect the out-standing sale proceeds of its sold vehicles by all means to minimize the outstanding Dues. Thus such human behavior was not an abnormal act to be treated as colorful device by the Authorities Below. Thus the findings of Authorities Below regarding colorful device is absolutely uncalled for warranting no adverse view. Thus the addition so made and confirmed by the Authorities Below on the basis of such imaginary hunch is totally uncalled for and deserves to be deleted summarily.*

2. *The appellant craves the right to add amend and alter the grounds on or before the hearing.”*

3. **Condonation of delay:** It is pointed out by the Registry that the appeal is filed belatedly by 51 (fifty one) days. The appellant has filed an application for condonation of delay in form of an affidavit sworn by the director of the appellant company Mr. Sandeep Prabhakar , explaining the fact that the name of the appellant company was originally *M/s Sangam Hire Purchase Company Ltd*, with address at old Nehru Market, Jammu PIN: 180001 , and subsequently the name of the company has been altered to *Hindvee Small Finance Limited*, its registered address has been changed to Vaishali Nagar, Jaipur, Rajasthan 302021, and the same was intimated to

the income tax department on 19/04/2023, and subsequently all communications from the department is being received at the new address. In course of hearing the Ld AR of the assessee explained that in the instant case the order of the Ld CIT(A) has been passed on 27<sup>th</sup> December, 2023, and the appeal should have been filed within sixty days therefrom ie by 28<sup>th</sup> February, 2024 , but the same was actually filed on 18<sup>th</sup> April, 2024 , because the order was not communicated to the new address at , Jaipur, Rajasthan, and the new email is stated to be [kssharmaandcompany@gmail.com](mailto:kssharmaandcompany@gmail.com). Moreover, on account of change in name, any delivery attempt by postal authorities, at old address might have been returned undelivered.

4. Subsequent, to gathering of information in the month of April 2024, regarding disposal of the appeal by the first appellate authority, the director of the appellant company contacted his lawyer and took immediate steps to file the appeal after deposit of necessary tribunal appeal fees, on 18<sup>th</sup> April, 2024, which was belated by fifty one (51 days) and he prays for condonation of the said delay, which was neither intentional nor willful.

5. The Ld DR did not object to the said application for condonation.

6. Considering the reasons stated in the affidavit, we find that the delay of the assessee in filing the appeal was bonafide and considering the reasons shown by the assessee, we condone the delay, and admit the appeal to be heard on merits.

7. The brief facts of this case are that the appellant company is engaged in the business of *hire purchase financing* of tourist vehicles and loans are advanced to small tour operators and taxi drivers, for purchase of vehicles, who are located mainly in the state of *Jammu and Kashmir* ,and earn their livelihood by operating *tourist vehicles* and the assessee company is engaged in the same business since more than last twenty years and during the year under appeal, the business office was located in *Jammu* . For the purpose of running this business in the *Kashmir Valley* , many marketing and sales agents are engaged by the assessee through whom *tourist vehicles* are financed and loans are advanced mainly to individuals, who are all *Cab operators and taxi drivers*, and these sales agents are also entrusted with the responsibility of collections of the installments, for and on behalf of the company, from taxi drivers and operators , whose vehicles has been financed by the assessee and collections are received in cash and also through bank channel , with full cooperation and support of the sales agents . The entire business of *hire purchase financing* were carried out as per RBI guidelines, and the financed vehicles where all registered with the local *RTO office*, under the *Motor Vehicles Act 1988*,and the

provisions of “*Jammu and Kashmir Motor Vehicle Rules , 1919* ”,is applicable within the State.

8. All vehicles, financed are duly registered in the names of the individual taxi operators and drivers as the case may, with hypothecation in favour of the assessee company, till continuation of the loan tenure . The entire business of hire purchase finance are duly recorded in books of accounts and due compliance with all Government authorities has been made as per requirements under various Acts.

9. During the year under appeal, regular return has been filed along with copies of statutory audit reports and audited balance sheet and in course of scrutiny proceedings, full set of books of accounts, cash book, ledger, journals, registers, along with supporting documents, invoices and bank statements, were produced before the AO , along with full details and identity of the clients (*customer*) to whom advances has been given and the respective registration numbers of vehicles (*which has been financed*) , and registered against each customer on *hire purchase basis*, details of installments collected from each persons , mode of collection and all other supporting particulars as required and called for by the AO.

10. Subsequently, the assessment has been completed on a total income of Rs. 57,90,683/- u/s 143(3) of the Act 61, by making an addition of Rs. 50,90,194/- u/s 68,

on account of alleged, unexplained cash credits, recorded in regular cash book for the months of October and November 2016, which has been explained by the assessee to have been sourced out of collections of outstanding installment dues from customers comprising of principal and interest, both, and the said collections made are claimed by the assessee to be fully documented, vouched and verifiable.

11. Subsequently, the matter was carried in appeal before the first appellate authority and the Ld. CIT(A), NFAC, dismissed the appeal of the assessee by observing as follows:

*“6.4 The appellant company has furnished the name of numerous parties from whom it has claimed the recovery of amount due from them in the month of October & November, 2016. First, the appellant has not provided the complete name, address and PAN of the parties from whom it has received payment in cash. Secondly appellant has uploaded scanned copies of receipts issued to customers wherein net even the name of the appellant company has been printed. Thus, the sanctity and veracity of such receipts are highly doubtful and thus, such receipts seem to be ser- produced only.*

*6.5. The appellant has furnished copies of Registration Certificates (RCs) of the vehicles purchased between 2006 to 2016. The copies of these registration certificates by no means explain and justify that the appellant has received payment from these parties in cash during the month of October & November (till 8<sup>th</sup> November). Here hire Charges of vehicles in last 10 years by the appellant company is not under question, thus copy of RCs submitted by the appellant were neither asked for by the Id. AO nor these RCs prove anything to substantiate the claim of the appellant. Therefore, it is clear that the appellant has miserably failed to furnish any type of documentary evidence to explain huge cash in hand accumulated by it within 38 days just before the declaration of demonetization. No documents submitted by the appellant can be verified independently. Therefore, I am of the considered opinion that the appellant has failed to furnish documentary evidence to explain and justify the source of huge cash deposited by it during the demonetization period.”*

12. Now the assessee is in appeal before the tribunal on the grounds contained in the memorandum of appeal. Before the tribunal the assessee has filed a paper-book

*containing 196 pages* , consisting of the print out of the entire cash book for the FY 2016-17 (relevant to the assessment year under appeal), copy of audited financial statements along with audit report , details of date wise receipts serially numbered , consisting of names of hire purchase parties with respective vehicle registration numbers and amounts received (*collected*) from each , pertaining to the *period 5<sup>th</sup> September 2016 to 8<sup>th</sup> November, 2016 (both days inclusive)* along with copies of corresponding receipt books serially numbered, bearing names of each person, as supporting documentary evidence of receipt(*collection*) of funds, and copies of written submissions filed before lower authorities in course of assessment and first appeal.

13. The Ld AR of the assessee submitted that though the grounds of appeal contained in the memorandum of appeal is in essay form, there is only one single issue of dispute in this appeal, which relates to the addition of Rs. 50,90,194/- u/s 68 of the Act 61, on account of alleged cash credit, which has been subsequently deposited in bank during the demonetization period.

14. He further submitted that during the scrutiny proceedings full sets of books of accounts including cash book, ledger, bank book, documentary evidences relating to names and address of borrowers, registration numbers of vehicles, serially numbered receipt books (evidencing the collection of installments) from the borrowers were all

furnished and examined by the AO and the said books of accounts has also been accepted.

15. He further argued that the books of accounts produced and examined by the AO in course of proceedings, has not been rejected u/s 145(3) of the Act 61, and the only allegation leveled by the AO is that the cash collected from various borrowers, who are all the customers of the assessee, by way of recovery of vehicle loans (inclusive of principal and interest), are not genuine, simply because cash has been deposited in bank by the assessee during the demonetization period.

16. The Ld AR further submitted that it is the normal business activity of the assessee company , engaged in the business of motor vehicle financing of tourist vehicles , in the Kashmir valley , since many years , and that collections from individual taxi operators and drivers are collected in cash , through the agents , and the said cash are deposited with the assessee company , against which money receipts ( *serially numbered* ) are issued to them , as evidence of payments. He submitted that hard bounded serially numbered *money receipt book* containing names of borrowers identified by registration number of vehicles were produced before the AO for verification and copies of the same are also filed for records, and the AO has admitted the same in the assessment order (*paragraph -2, page-3 of assessment order*), the relevant portion reads as follows:

“1. The assessee was asked to submit documentary evidence w.r.t. large cash receipts before the starting of demonetization period. The assessee was only able to furnish 2<sup>nd</sup> copy of the receipt issued to customers which does not prove the genuineness of the transactions. The assessee also furnished copies of identity proofs of S persons from whom the assessee firm has received cash. However, it does not prove the genuineness of all the transactions which runs into receipts of hundreds of people.

2. Thus, the entries recorded in the books of the accounts regarding the cash receipts of Rs 54,76,806/- during the period of 38 days before demonetization do not appear to be genuine by any stretch of imagination. It is very clear that this has been done to incorporate the cash balance so as to **justify the cash deposited during the demonetization period.**”

17. The Ld AR explained that the original money receipt are in the custody of the borrowers from whom collection is made and it is the 2<sup>nd</sup> copy of the receipts which are part of the records of the assessee (*which are produced for verification*) and the said copy also contains full names and address of borrowers with corresponding registration number of vehicles financed by the assessee (*on hire purchase*) and since all the vehicles are duly registered before Motor Vehicle authorities , the identity and genuineness of the driver or tour operator are already proved before the State Government authority, evidenced by individual driving license, without which registration would not have been possible and it was always open to the AO to have made any verification or enquiry , from the office of the M V Department , to clear any doubt regarding the genuineness or existence of the motor vehicles financed by the assessee , because these are all subject to clearance of hypothecation in the *blue book ( endorsed in favour of the assessee till existence of loans being repaid )*.

18. He further submitted that during the FY 2016-17, the promoter directors of the company Shri Ram Nath and Smt. Bimla Rani, both were seriously ill due to old age and were not able to devote sufficient time for conducting the day to day affairs of the company, and were contemplating to sell off the business or transfer the same and has undertaken special drive towards collection of all outstanding dues from the market before transfer of management and as resultant effort, a good amount of outstanding dues were collected during the months of September 2016 to November 2016 , which are all recorded in cash book and are evidenced by serially numbered money receipts, which were all produced for verification. *(For the records he informed that the said promoter director Sri Ram Nath, unfortunately expired in the year 2019).*

19. As such, the Ld AR argued, that the allegation of the AO regarding ingenuineness of the money receipts produced, evidencing the collections of funds, are simply based on presumption and assumptions, because in the matter before the tribunal, no single specific instance is pointed out by the AO, where any verification or enquiry has been conducted or any of the borrowers *(car drivers or tour operators)* has been summoned or any adverse information has been gathered from the local Motor Vehicles authority either. In other words, he argued that in spite of the list of so many borrowers with vehicle numbers being submitted and placed on record *(all being residents of Jammu and Kashmir)*, not a single verification has

been made and there is not even a single instance of specific negative finding, flowing out of any specific verification of any single borrower. He further argued that in absence of any specific instance regarding any particular borrower relating to any single registration number correlating to any specific money receipt being proven to be false, incorrect, or inaccurate, the date wise entries in the regular books of accounts, cannot be doubted on mere presumption and assumption and branded as incorrect, because there is no case of rejection of books of accounts and the AO has rightly NOT rejected the books, and in absence of rejection of books the book results are to be accepted.

20. The Ld AR of the assessee further drew our attention to the submission filed by the assessee dated 29/11/2023, before the Ld first appellate authority, to argue that copies of registration certificates of vehicles (*commonly known as the blue book*), containing the vehicle owners name and identity, were all submitted before the AO and also before the first appellate authority, which contains full address of the owners (customers), but no verification or enquiry has been conducted, at any stage, and without bringing any material on record to disprove the authenticity or genuineness of the money receipts, or without pointing out, any discrepancy in such documents, the same cannot be branded as un reliable, simply on assumption, and the same is not legally acceptable.

21. The Ld AR thereafter, referred to the financial statements and audited balance sheet ( placed at pb. page 34 to 39 ) to explain that cash collections (receipts) during the year are all documented and supported by proper receipts relating to each specific parties (customers) which are identifiable , and during this FY, there has been reduction of outstanding amount of hire purchase stock under long term loans by Rs. 25.10 lakhs item-8 of audit report (recovery of principal amount), and recovery of short term H.P. stock recoverable (item-9 of audit report) of an amount of Rs.32.14 lakhs, because of the special drive initiated by the directors.

22. Thereafter, he referred to the Cash Book as on 1<sup>st</sup> November, 2016 ( *placed in page 23 of the PB* ), to point out that the cash book balance as on 8<sup>th</sup> November, 2016, at the close of business hours was Rs. 54,49,531/- , and the said cash was immediately deposited in the banks on three successive days , *10<sup>th</sup> November Rs. 15 lakhs, 11<sup>th</sup> November Rs. 20.50 lakhs, and 12<sup>th</sup> November Rs.15 lakhs*, which proves that cash was already collected much earlier and was in custody of the assessee, since much before the announcement of demo date, and it is not a case that the assessee accepted SBN notes from customers post demonetization , and went on depositing cash throughout the entire demo period. He further submitted that , in this nature of business , it would not have been possible to gather and collect SBN notes from borrowers within a day or two for deposit in bank because all individual tour operators and taxi owners are spread all over the Kashmir valley. The Ld AR further

argued that the very short span of time within (*three bank working days*) by which the cash has been deposited, is ample proof that the cash was already collected and available with the assessee much earlier to 8<sup>th</sup> November, and as such the date wise reflection of the same in the cash book balance , since October, 2016 onwards, is proved beyond doubt, because in the instant case the assessee had the cash and has deposited it immediately.

23. Before concluding his arguments, the Ld AR submitted that in the instant case, the deeming provisions of section 68 of the Act 61, is legally not applicable , because in the instant case, there is no *cash credit* as such, because there is no increase in liability in this case because realization of “*loans and advances*”( principal amount) during the year will reduce the outstanding balance of “*Long term loans and advances* ”as reflected in the asset side of the balance sheet and there is no increase in capital or liability, and the other part is recovery of interest portion ( *contained in the EMI* ), which is already a part of “*revenue from operation*” and has formed a part of the total income subjected to taxation , and taxing the same again u/s 68 of the Act 61 , will lead to double taxation, and he prays for deleting the addition of Rs.50. 90 lakhs, sustained u/s 68 of the Act by the Ld first appellate authority.

24. Per contra the Ld DR, relied on the order of the Ld. CIT ( A ) and argued that on the facts of the case the assessee has not been able to explain and justify the

source of cash deposit in bank during demonetization period and as such the order of the Ld first appellate authority needs to be sustained, more so considering the fact that only five I.D. proofs has been provided (*as per page 3 of Asstt. Order*), to which the Id. AR, countered that copies of vehicle registration certificates are all on record, which is the proof of I.d. and address of vehicle owners itself.

25. We have heard the rival submissions and considered the materials on record and the contents of the paper book submitted by the assessee. Firstly we look into the cash book as contained in the paper book (page – 23), and we observe that the closing cash balance as on 8<sup>th</sup> November, 2016 , is reflected at Rs. 54,49,531/- , and the cash in hand as on the 8<sup>th</sup> November, has been immediately deposited in bank on three successive days , i.e. on the 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> November ( *9<sup>th</sup>.November being bank closure* ), which reinforces the argument of the assessee that the cash was collected well in advance by the assessee in normal course of business , much earlier to the date of declaration of demonetization and it has been deposited immediately within three days (*admittedly in Kashmir valley the entire deposit could not have been carried to bank on a single day because of security reasons*) and it is not a case where SBN are being deposited throughout the entire period.

26. The relevant page of the cash book is reproduced for ready reference:

GAGAN HIRE PURCHASE CO. LTD. 2016-17

Ledger Vouchers

Ledger : CASH-IN-HAND

Period from 1-Apr-2016 to 31-Mar-2017

(23)

Date	Particulars	Vch Type	Vch No.	Debit	Credit	Balance
1-11-2016	H/M 1093 ABBAS SIDIQI JK12-1367	Journal	716	10,000.00	-	38,73,578.00
2-11-2016	I/C 1100 MOHD.SHAFIQ JK02AM-8924	Journal	717	-	15,000.00	38,58,578.00
2-11-2016	H/M 1106 SR RAJINDER SINGH JK02AF-8715	Journal	719	14,000.00	-	38,72,578.00
2-11-2016	H/M 1133 JOGINDER SINGH JK02AE-9957	Journal	720	10,000.00	-	38,82,578.00
2-11-2016	H/M 1127 DARSHAN LAL JK02AE-3071	Journal	721	15,000.00	-	38,97,578.00
3-11-2016	Telephone & Postage	Journal	722	-	580.00	38,96,998.00
3-11-2016	I/C 1100 MOHD.SHAFIQ JK02AM-8924	Journal	723	-	14,680.00	38,82,318.00
3-11-2016	Misc.Expenses A/c	Journal	724	-	160.00	38,82,158.00
3-11-2016	Car Maintanance A/c	Journal	725	-	1,000.00	38,81,158.00
3-11-2016	H/M 1113 GAGAN ARRORA JK02AD-6883	Journal	726	3,48,800.00	-	42,29,958.00
3-11-2016	H/M 1164 KAFEEL HUSIAN JK02AP-5327	Journal	727	10,350.00	-	42,40,308.00
3-11-2016	H/M 1152 RIAZ AHMD JK02J-4803	Journal	728	7,500.00	-	42,47,808.00
4-11-2016	Car Maintanance A/c	Journal	729	-	1,000.00	42,46,808.00
4-11-2016	I/C 1054 MOHD JAMIL JK14A-3781	Journal	730	-	11,038.00	42,35,770.00
5-11-2016	News Paper & Periodicals	Journal	734	-	120.00	42,35,650.00
5-11-2016	Staff Welfare A/c.	Journal	735	-	355.00	42,35,295.00
5-11-2016	H/M 1118 GAGAN ARRORA JK02AS-3783	Journal	736	3,74,700.00	-	46,09,995.00
7-11-2016	P.N.BANK.	Journal	737	-	25,000.00	45,84,995.00
7-11-2016	H/M 1095 SANDEEP KMR. JK02V-7331	Journal	739	8,400.00	-	45,93,395.00
8-11-2016	INT.P/DEP-4098 PARDEEP KUMAR	Journal	740	-	1,375.00	45,92,020.00
8-11-2016	H/M 1150 SUSHIL KUMAR JK02AT-6495	Journal	744	10,000.00	-	46,02,020.00
8-11-2016	H/M 1078 MOHD RIAZ JK12-1976	Journal	745	1,05,510.00	-	47,07,530.00
8-11-2016	H/M 1097 MOHD.SHAFI JK14-8714	Journal	746	77,064.00	-	47,84,594.00
8-11-2016	H/M 1110 KARAN SINGH JK02W-2169	Journal	747	2,41,657.00	-	50,26,251.00
8-11-2016	H/M 1075 BASHART HUSIAN JK12-1177	Journal	748	60,855.00	-	50,87,106.00
8-11-2016	H/M 1093 ABBAS SIDIQI JK12-1367	Journal	749	1,15,279.00	-	52,02,385.00
8-11-2016	H/M 1074 MOHD AZAM JK12-2934	Journal	750	73,733.00	-	52,76,118.00
8-11-2016	H/M 1105 AFTAB HUSSIAN JK14B-4387	Journal	751	1,18,005.00	-	53,94,123.00
8-11-2016	H/M 1051 RAKESH KUMAR JK12-2910	Journal	752	55,408.00	-	54,49,531.00
10-11-2016	P.N.BANK.	Journal	756	-	15,00,000.00	39,49,531.00
11-11-2016	P.N.BANK.	Journal	759	-	18,00,000.00	21,49,531.00
11-11-2016	J&K BANK LTD.	Journal	760	-	2,50,000.00	18,99,531.00
11-11-2016	Car Maintanance A/c	Journal	761	-	2,000.00	18,97,531.00
11-11-2016	H/M 1162 RAYAL KHAN JK12-3785	Journal	764	10,000.00	-	19,07,531.00
12-11-2016	J&K BANK LTD.	Journal	766	-	15,00,000.00	4,07,531.00
18-11-2016	J&K BANK LTD.	Journal	773	-	35,000.00	3,72,531.00
22-11-2016	Telephone & Postage	Journal	778	-	995.00	3,71,536.00
23-11-2016	INT.P/DEP-0730 ANMOLAK SINGH	Journal	780	-	1,206.00	3,70,330.00
25-11-2016	Printing & Stationery	Journal	784	-	262.00	3,70,068.00
25-11-2016	INT.P/DEP.4185 BALBINDER SINGH	Journal	785	-	3,322.00	3,66,746.00
25-11-2016	P/DEP.4187 MEER KOUR	Journal	786	-	10,000.00	3,56,746.00
25-11-2016	P/DEP.4186 AMIT PAL SINGH	Journal	787	-	10,000.00	3,46,746.00
29-11-2016	Staff Welfare A/c.	Journal	790	-	355.00	3,46,391.00
29-11-2016	INT.P/DEP-3769 RAM PAUL KHAJOURIA	Journal	791	-	950.00	3,45,441.00
30-11-2016	News Paper & Periodicals	Journal	796	-	120.00	3,45,321.00



Director

27. Secondly, we observe the entire date wise details of vehicle registration numbers, corresponding money receipt numbers and names of the borrower (hire purchase party) and the amount tendered by each one of them, (*as enclosed in Paper Book Page 10-13*) which are also date wise entered and reflected in the cash book print out submitted in the paper book. (*The relevant pages are reproduced for ready reference*):

**SANGAM HIRE PURCHASE CO. LTD.****Details of receipts with Vehicle Registration Number, Receipt Number and names**

From 1st September to 8th November-2016

Date of receipt	Vehicle Registration No.	Receipt No.	Hire Purchase party name	Amount received
05-09-2016	JK 02 J 0887	15623	Gurvinder Singh	5,300
05-09-2016	JK 02 S 5809	15624	Bansi Lal	20,000
07-09-2016	JK 11 9748	15625	Mustaq Humrain	11,500
07-09-2016	JK 02 AL 0637	15626	Younus Ali	14,350
08-09-2016	JK 02 M 0795	15627	Mohd Riaz Khan	10,200
08-09-2016	JK 06 2443	15629	Mohd Ahmd	8,500
09-09-2016	JK 02 AF 8715	15630	Rajinder Singh	14,000
09-09-2016	JK 02 E 6787	15631	Bashart Husain	20,000
09-09-2016	JK 02 E 6787	15632	Bashart Husain	480
10-09-2016	JK 02 AE 3071	15633	Darshan Lal	5,522
10-09-2016	JK 020 T 4658	15634	Neel Kumar	5,000
10-09-2016	JK 02 AT 6495	15635	Sushil Kumar	5,000
12-09-2016	JK 02 T 4658	15636	Neel Kumar	52,920
17-09-2016	JK 14 A 4876	15642	Mohd, Saghir	27,300
19-09-2016	JK 02 T 4658	15643	Neel Kumar	100
19-09-2016	JK 14 9287	15644	Harvinder Singh	34,760
19-09-2016	JK 02 AT 1393	15645	Tara Chand	12,000
19-09-2016	JK 02 M 0713	15646	Kulbir Singh	21,000
20-09-2016	JK 02 AL 0637	15648	Youns Ali	4,19,000
20-09-2016	JK 02 AE 3071	15650	Darshan Lal	25,000
21-09-2016	JK 14 A 2211	15651	Sarfaraz Ahmed	5,000
22-09-2016	JK 02 AH 4386	15654	Payara Lal	34,460
23-09-2016	JK 02 AS 3783	15655	Gagan Arrora	26,100
23-09-2016	JK 02 AD 6883	15656	Gagan Arrora	23,900
23-09-2016	JK 02 AE 9957	15658	Joginder Singh	8,000
23-09-2016	JK 20 1383	15659	Mohd. Latif	1,95,251
26-09-2016	JK 02 AR 8529	15660	Shaid Khan	11,000
27-09-2016	JK 02 AL 2396	15661	Pankaj Sabharwal	4,600
29-09-2016	JK 12 3867	15662	Bashir Ahmed	45,000
01-10-2016	JK 02 W 2169	15665	Karan Singh	30,000
01-10-2016	JK 02 AC 8353	15666	Ravi Chowdhary	50,000
01-10-2016	JK 08 A 3135	15668	Mustaq Ahmed	45,189
01-10-2016	JK 14 A 7760	15669	Zahid Khan	43,750
01-10-2016	JK 12 2351	15670	Mohd. Shafiq	48,897
01-10-2016	JK 12 2153	15671	Riaz Ahmed	42,184
03-10-2016	JK 02 L 8027	15674	Baldev Singh	23,000
03-10-2016	JK 02 AJ 8995	15675	Sarafaraz Hussain	61,310
03-10-2016	JK 12 0882	15676	Zaffar Iqbal	68,016
03-10-2016	JK 12 3698	15677	Rakesh Kumar	65,504
04-10-2016	JK 02 X 4481	15679	Rukhsar Ahmed	39,117



**SANGAM HIRE PURCHASE CO. LTD.****Details of receipts with Vehicle Registration Number, Receipt Number and names**

From 1st September to 8th November-2016

Date of receipt	Vehicle Registration No.	Receipt No.	Hire Purchase party name	Amount received
04-10-2016	JK 02 S 5809	15680	Bansi Lal	75,802
04-10-2016	JK 02 AD 7217	15681	Yonus Ali	2,87,100
04-10-2016	JK 02 M 0713	15682	Kulbir Singh	51,900
06-10-2016	NA	15686	Interest on Dealer	19,200
06-10-2016	NA	15687	Interest on Dealer	14,400
06-10-2016	NA	15688	Interest on Dealer	2,400
06-10-2016	NA	15689	Interest on Dealer	3,200
07-10-2016	JK 02 J 0887	15693	Gurvinder Singh	4,800
07-10-2016	JK 02 AP 5327	15694	Kafeel Hussain	70,760
07-10-2016	JK 14 A 4876	15697	Mohd. Saghir	57,500
07-10-2016	JK 08 A 7455	15698	Dilawar Khan	35,314
07-10-2016	JK 12 3245	15699	Mohd. Iqbal	42,364
10-10-2016	JK 06 2443	15700	Mushtaq Ahmed	8,500
10-10-2016	JK 02 AT 1393	15702	Tara Chand	76,500
10-10-2016	JK 02 C 8139	15703	Balvinder Singh	1,19,175
10-10-2016	JK 02 R 2809	15704	Mohd. Yonus	28,057
10-10-2016	JK 12 3698	15705	Rakesh Kumar	1,60,850
13-10-2016	JK 14 A 2211	15706	Sarfaraz Ahmed	26,173
13-10-2016	JK 02 AF 8715	15707	Rajinder Singh	14,000
13-10-2016	JK 02 AT 6495	15708	Sushil Kumar	10,000
13-10-2016	JK 02 AE 9957	15709	Joginder Singh	10,000
13-10-2016	JK 02 AC 0346	15710	Ashiq Hussain	72,592
13-10-2016	JK 02 M 0795	15711	Mohd. Riaz	66,167
13-10-2016	JK 12 4351	15712	Maqsod Ahmed	80,057
13-10-2016	JK 02 T 4658	15713	Neel Kumar	65,000
14-10-2016	JK 12 3033	15714	Mohd. Safir	1,10,100
14-10-2016	JK 12 9287	15715	Harvinder Singh	2,915
14-10-2016	JK 02S 9769	15716	Mohinder Singh	15,000
14-10-2016	JK 02 E 6787	15718	Bashart Husain	41,105
14-10-2016	JK 14 B 1769	15719	Gulam Mustafa	84,960
14-10-2016	JK 02 AG 6717	15720	Mohd. Tazeem	44,200
14-10-2016	JK 02 AA 9635	15721	Nasrulah Khan	53,910
15-10-2016	JK 02 T 4658	15723	Neel Kumar	2,500
15-10-2016	JK 14 A 8173	15724	Mohd. Safeer	37,620
15-10-2016	JK 02 X 6950	15725	Abdul Gani	27,157
15-10-2016	JK 12 2783	15726	Manzor Ahmd.	51,000
15-10-2016	JK 02 AR 8529	15727	Shaid Kahn	46,457
17-10-2016	JK 02 AG 6717	15728	Mohd. Tazeem	1,64,750
17-10-2016	JK 02 AT 1393	15729	Tara Chand	10,000



**SANGAM HIRE PURCHASE CO. LTD.****Details of receipts with Vehicle Registration Number, Receipt Number and names**

From 1st September to 8th November-2016

Date of receipt	Vehicle Registration No.	Receipt No.	Hire Purchase party name	Amount received
17-10-2016	JK 02 AC 8353	15730	Ravi Chowdhary	49,815
17-10-2016	JK 02 AC 8353	15731	Ravi Chowdhary	10,000
17-10-2016	JK 02 X 8782	15733	Rajinder Singh	1,36,600
17-10-2016	JK 12 3785	15734	Rayal Khan	30,500
17-10-2016	JK 02 P 4605	15735	Nasrulah Khan	54,100
17-10-2016	JK 14 B 0837	15736	Faiz Husian	28,800
18-10-2016	JK 02 AT 6495	15738	Sushil Kumar	28,950
18-10-2016	JK 02 T 5128	15739	Rajinder Singh	1,03,200
18-10-2016	JK 02 Q 2130	15740	Kali Dass	23,014
18-10-2016	JK 12 3895	15741	Arshad Ahmed	56,900
19-10-2016	JK 12 3867	15742	Bashir Ahmed	33,900
20-10-2016	JK 12 1853	15743	Mahroof Husain	10,000
20-10-2016	JK 02 J 0887	15745	Gurvinder Singh	31,877
20-10-2016	JK 02 X 4481	15746	Rukhsar Ahmed	20,900
20-10-2016	JK 14 A 2934	15747	Mohd. Arif	13,090
21-10-2016	JK 02 AC 8353	15748	Ravi Chowdhary	40,300
21-10-2016	JK 02 AJ 8995	15749	Sarfaraz Hussain	42,057
21-10-2016	JK 02 AJ 8995	15750	Sarfaraz Hussain	78,750
21-10-2016	JK 14 A 5765	15752	Mohd. Sharief	54,200
24-10-2016	JK 12 2934	15753	Mohd Azam	10,000
24-10-2016	JK 02 AC 0346	15754	Ashiq Hussain	20,000
24-10-2016	JK 08 A 3135	15755	Mustaq Ahmed	11,400
24-10-2016	JK 02 X 4481	15756	Rukhsar Ahmed	10,000
24-10-2016	JK 02 AR 8529	15757	Shaid Khan	11,000
24-10-2016	JK 08 A 7455	15758	Dilawar Khan	18,000
24-10-2016	JK 02 R 2809	15759	Mohd. Youns	7,000
25-10-2016	JK 06 2443	15763	Mustaq Ahmed	17,700
27-10-2016	JK 02 AM 8924	15767	Mohd. Ashfaq	1,23,900
27-10-2016	JK 02 J 4803	15769	Riaz Ahmed	29,300
29-10-2016	JK 02 AL 2396	15772	Pankaj Sabharwal	4,600
29-10-2016	JK 02 AP 5327	15774	Kafeel Hussain	90,250
01-11-2016	JK 12 1367	15775	Abbas Sidiqi	10,000
01-11-2016	JK 02 AF 8715	15776	Rajinder Singh	14,000
02-11-2016	JK 02 AE 9957	15777	Joginder Singh	10,000
02-11-2016	JK 02 AE 3071	15778	Darshan Lal	15,000
02-11-2016	JK 02 AD 6883	15779	Gagan Arrora	3,48,800
03-11-2016	JK 02 AP 5327	15780	Kafeel Hussain	10,350
03-11-2016	JK 02 AT 6495	15781	Sushil Kumar	7,500

**SANGAM HIRE PURCHASE CO. LTD.****Details of receipts with Vehicle Registration Number, Receipt Number and names**

From 1st September to 8th November-2016

Date of receipt	Vehicle Registration No.	Receipt No.	Hire Purchase party name	Amount received
05-11-2016	JK 12 1976	15782	Mohd. Riaz	3,74,700
07-11-2016	JK 02 V 7331	15783	Mohd. Shafi	8,400
08-11-2016	JK 02 AT 6495	15785	Sushil Kumar	10,000
08-11-2016	JK 12 1976	15786	Mohd Riaz	1,05,510
08-11-2016	JK 14 8714	15787	Mohd Shafi	77,064
08-11-2016	JK 02 W 2169	15788	Karan Singh	2,41,657
08-11-2016	JK 12 1177	15789	Bashart Husain	60,855
08-11-2016	JK 12 1367	15790	Abbas Sidiqi	1,15,279
08-11-2016	JK 12 2934	15791	Mohd. Azam	73,733
08-11-2016	JK 14 B 4387	15792	Aftab Hussain	1,18,005
08-11-2016	JK 12 2910	15793	Rakesh Kumar	55,408
			Total	65,32,059

Note: Scanned copies of receipts are enclosed.

28. Thirdly, we observe that the Ld CIT(A) has accepted that all the copies of vehicle registration certificate ( blue book ) were duly submitted before the AO and are on record, which proves the availability of the respective names and address and corresponding vehicle numbers , of the borrower and fourthly , the copies of the date wise money receipts issued to the parties against cash collection , which are serially numbered , are all submitted before the AO ( *the original being in the custody of the parties*). On the face of such existing documentary evidences, it is seen that no verification of such documentary evidences has been made by any authority at the lower stage, nether by summoning any borrower u/s 131 or by causing any enquiry

u/s 133(6) of the Act 61, and no specific instance of conducting any cross - verification or enquiry in respect of any parties, has been brought out in the assessment order. In other words in course of assessment proceedings, the AO has not been able to bring out any single instance ( *amongst so many parties available* ), to prove that the contents of the documentary evidences submitted by the assessee , are wrong or incorrect or false. There are no instances of any letters being returned unserved.

29. As such we are of the opinion, that without causing any sort of verification or enquiry to disprove the authenticity of the documentary evidences submitted by the assessee, the submitted evidence cannot be simply brushed aside.

30. In the instant case we find that the nature of hire purchase finance of vehicles is a business which is carried on by the assessee in normal course for many years and the financing of the motor vehicles against specific registration numbers (*registered before RTO*), cannot be denied and the outstanding balance as at the beginning of the financial year as on 01/04/2016 , is reflected in the audited balance sheet at Rs. 64.73 lakhs, under the head Hire Purchase Stock (Long Term), and an amount of Rs.32.14 lakhs is reflected under the head H.P. stock recoverable within one year (short term) out of which the recovery of the principal amount is being made and the remaining portion is out of the hire purchase charges recovered, which is already

offered as income as revenue from operations for the year under appeal. In support of its contention the assessee has produced serially numbered date-wise money receipts, containing vehicle numbers and corresponding names and address available in the registration blue book, and the same has not been proved to be false and no single case of cross verification has been done by the AO, to disprove the authenticity of the said documentary evidences.

31. Moreover, we find that the hire charges receipts portion, amounting to Rs.21.94 lakhs has been accepted by the AO and has formed a part of the total income in the Profit and Loss A/c which cannot be brought to tax again, as cash credit, u/s 68 of the Act 61.

32. Regarding applicability of section 68 of the Act 61, we rely on the Hon'ble Supreme Court in case of *CIT vs. P. Mohanakala reported in 291 ITR 278* while dealing with scope of provision of section 68 of the Act the Hon'ble Court held that:

*“the opinion of the AO that the explanation furnished by the assessee as not satisfactory is required to be based on proper appreciation of materials and other attending circumstances available on record. The opinion of the Assessing Officer is required to be formed objectively with reference to the material available on record. Application of mind is the sine qua non for forming the opinion.”*

33. In other words, once the assessee submits the primary evidence with regard to identity and credit worthiness of creditor and the genuineness of the transaction, the

onus shifts on the AO to consider the materials provided and make independent inquiry in order to find out genuineness of the evidence or bring material contrary to facts explained by the assessee. The AO cannot reject the primary evidence furnished by the assessee without appreciating the facts available on record or without bringing contrary material to form the belief that primary document or explanation furnished by the assessee is not satisfactory.

34. In the instant case the AO has simply brushed aside the evidence submitted without any verification, which is not as per provisions of law. As such considering all the factual aspects of the matter, we are of the opinion that cash balance available in the regular cash book on 8<sup>th</sup> November, 2016, as reflected, cannot be denied to the assessee, and the SBN deposited in the bank A/c by the assessee subsequent to 8<sup>th</sup> November, 2016, also stands covered by the said available cash balance.

35. In the result, the appeal filed by the assessee is allowed.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 24.02.2025

**Sd/-**  
**(Krinwant Sahay)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order