

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: E : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.3980/Del/2024
Assessment Year: 2016-17

ACIT,
Central Circle-17,
New Delhi.

Vs Neeraj Aggarwal,
RZ-227B, Sadh Nagar,
Gali No.6,
Palam Colony,
New Delhi – 110 045.

PAN: AFNPA1136K

(Appellant)

(Respondent)

Assessee by	: Shri Sudesh Garg, Advocate & Ms Bhavya Garg, Advocate
Revenue by	: Shri Sunil Kumar Yadav, CIT-DR
Date of Hearing	: 21.04.2025
Date of Pronouncement	: 21.04.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Revenue against the order dated 10.06.2024 of the Commissioner of Income-tax (Appeals)-31, New Delhi (hereinafter referred to as the Ld. First Appellate Authority or ‘the Ld. FAA’, for short) in Appeal No.CIT(A), Delhi-31/10297/2019-20 arising out of the appeal before it against the order dated 29.12.2017 passed u/s 143(3) of the

Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ACIT, Central Circle-17, New Delhi (hereinafter referred to as the Ld. AO).

2. The grounds of the Revenue are as follows:-

“1. The order of the CIT(Appeals) is erroneous and not tenable in law and on facts.

2. The Ld. CIT(A) has erred in deleting addition of Rs. 3,00,00,000/- by treating the amount of Rs. 3Cr. As unsecured cash loan taken and repaid during the year under consideration by ignoring the fact that the assessee was never able to furnish any supporting document in support of the same during the course of assessment as well as appellate proceedings.

3. The Ld. CIT(A) has erred in fact in considering the amount of Rs. 5,65,000/- as interest paid by the assessee by ignoring the fact that assessee was never able to furnish any supporting document in support of the expenditure made during the course of assessment as well as appellate proceedings.

4. The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”

3. On hearing both the sides and considering the contentions of the ld. DR supporting the order of the AO, we find that the same has no substance. In the case before us, the assessee's return was filed on 29.03.2017 and, thereafter, there was a search operation on 09.09.2015 and the assessment was completed at an income of Rs.3,14,65,000/- against the returned income of Rs.8,97,310/-. The AO has made an addition of Rs.3,05,65,000/- u/s 69A being Rs.3 crores as advance loan given and Rs.5,65,000/- as interest received thereupon on the basis of noting on a slip found from the appellant. This slip has been scanned on the body of the assessment order and has also been considered by us. Based upon

this slip, the additions were made which have been deleted by the Id.CIT(A) by following observations:-

“16. As per the above document, there was receipt of Rs.3 Crores and the same was returned. Hence, the balance nil is appearing. On such amount of loan, interest has been computed at Rs.5,65,000/--

17. The entire document has to be deciphered in its totality. The first entry is in respect of receipt of money of Rs.3 Crores. The subsequent entry is of returning back. Therefore, apparently, the amount of Rs.3 Crores was received and it was repaid. The Assessing Officer has also treated it as loan transaction. However, the Assessing Officer has considered the transaction as that of first receiving the loan and subsequently giving it as loan on interest. However, on perusal of the document it is evident that the appellant has first received the loan and subsequently repaid the loan. On perusal of the document it cannot be inferred that after receiving the loan, the appellant has given loan on interest to someone as was held by the Assessing Officer. The inference of the Assessing Officer is not logical and does not flow from the impugned seized documents.

18. The appellant has not been able to explain whether or not such transaction has been reflected in his accounts for the return of income. Apparently, the amount was received in cash and that is the reason why the transaction is not reflected in the accounts or the return. The appellant could not furnish any evidence contrary to the conclusion that the amount of loan was received by way of cash. Therefore, it is held that the appellant received loan in cash amounting to Rs.3 crores and repaid the same.

19. It is not the case of the Assessing Officer that the appellant maintained any books of accounts and that the said amount of loan was recorded in the books of accounts. Further, it is not the case of the Assessing Officer that the appellant has not been able to discharge the onus of prove the identity, creditworthiness of the creditor and genuineness of the transaction. Thus, the Assessing Officer has not invoked the provisions of section 68 of the Act in bringing to tax the amount of Rs.3 Crores.

20. Other than invoking the provisions of section 68, the loans cannot be treated as Income. The Assessing Officer has not initiated any proceedings u/s 269SS or 269T that deals with the cases of accepting loans in cash and repaying the loan in cash. Loans do not take the character of income until there is a deeming provision in the law. Therefore, the loan has to be treated as liability and not income of the appellant.

21. Therefore, It is held that the Assessing Officer was not justified in treating the loan of Rs.3 Crores received in cash as unexplained money u/s

69A of the appellant. Accordingly, the amount of Rs.3 Crores added by the Assessing Officer is deleted.”

4. However, the Id.CIT(A) has sustained the addition of the interest of Rs.5,65,000/- as unexplained money and made an addition u/s 69C of the Act.

5. After going through the aforesaid observations of the Id.CIT(A), we are of the considered view that the Revenue does dispute that there was counter entry scribed on the alleged incriminating document whereby there was receipt of loan Rs.3 crores and the same was returned. Thus, the Id.CIT(A) was justified in holding that where there is no dispute of identity and creditworthiness of the lender, this receipt of loan and settlement cannot be considered to be unexplained money u/s 69A of the Act. We find no substance in the grounds raised. The appeal of the Revenue is dismissed.

Order pronounced in the open court on 21.04.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 21st April, 2025.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi