

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

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER

ITA No.3781/Del/2024
Assessment Year: 2014-15

KG Housing Projects Pvt. Ltd., Vs ITO,
D-116, Preet Vihar, Ward-14(3),
Delhi – 110 092. Delhi.

PAN: AAECK3840R

(Appellant)

(Respondent)

Assessee by : Shri Pratap Gupta, CA
Revenue by : Shri Om Prakash, Sr. DR
Date of Hearing : 16.04.2025
Date of Pronouncement : 28.05.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the order dated 24.05.2024 of the Commissioner of Income-tax (Appeals), NFAC, Delhi (hereinafter referred to as the Ld. First Appellate Authority or 'the Ld. FAA', for short) in Appeal No.CIT(A), Delhi-5/10543/2016-17 arising out of the appeal before it against the order dated 27.12.2016 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ITO, Ward 14(3), New Delhi (hereinafter referred to as the Ld. AO).

2. The assessee had filed the return of income declaring income of Rs.3,17,200/- and the case of the assessee was taken up for scrutiny. During the year under consideration, the assessee was engaged in the business of real estate development and related business activities. In the assessment proceedings, the AO examined the P&L account of the assessee and found that the assessee has taken unsecured loans from various entities for which enquiries were raised and notices were issued u/s 133(6) of the Act to the concerned parties and based on the fact of non-return of the notices and non-compliance to these notices and to the summons u/s 131 of the Act, the AO doubted the genuineness of the loan/advances and made the addition u/s 68 of the Act which is sustained by the Id.CIT(A) against which the assessee is in appeal raising the following grounds:-

“1 That Id CIT(A) without appreciating the correct facts of the case and without considering the documents filed during the course of appellate proceedings is not justified in law and facts and circumstances of the case in confirming the addition of Rs. 84,00,000/- made by ld assessing officer under section 68 of the I.T. Act only on the basis of finding given in the assessment order ignoring the fact that out of addition of Rs. 8400000/-, loan of Rs. 8300000/-was received in earlier years and therefore addition so made is liable to be deleted.

2. That Id CIT(A) without appreciating the correct facts of the case is not justified in law and facts and circumstances of the case in confirming the disallowance of interest paid of Rs.1937832/- u/s 40A(2)(b) of the Income Tax Act

3. The appellant has every right to make, add, delete, modify or alter any grounds of appeal at the time of hearing.”

3. On hearing the ld. representatives of both the sides, we find that the case of the assessee is that out of this disputed addition of Rs.84 lakhs, a loan of Rs.83 lakhs was received in earlier years. The ld. AR has placed before us a chart mentioning the details of the parties and that how this amount of Rs.83 lakhs comes as an opening balance from 17 parties. This aspect could not be disputed by the ld. DR. We find that during the year even a sum of Rs.9 lakh is paid to one of the parties and further, Rs.1 lakh is borrowed with the actual borrowing of Rs.1 lakh only from M/s Kabeer Enterprises Pvt. Ltd. This amount is also explained to be received by the assessee out of repayment of the loan of Rs.8 lakhs. Thus, we are of the considered view that as for the purpose of section 68 of the Act, for the year under consideration, there can be no addition on the basis of opening balances of the loans. Consequently, the remaining addition of Rs.19,37,832/- on the basis of disallowance of interest paid also cannot be sustained.

4. Resultantly, we are inclined to sustain the grounds as raised. The appeal of the assessee is allowed. The impugned additions are deleted.

Order pronounced in the open court on 28.05.2025.

Sd/-

(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 28th 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