

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No.5809/DEL/2019
(Assessment Year: 2015-16)**

Ashok Kumar Grover,
Plot No.604, Sector 3,
Vasundhara,
Ghaziabad – 201 012 (Uttar Pradesh).

vs. ITO, Ward 69 (4),
New Delhi.

(PAN : AAMPG7063R)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Nitin Goyal, CA
REVENUE BY : Shri Sanjay Kumar, Sr. DR

Date of Hearing : 12.03.2025

Date of Order : 28.05.2025

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeal against the order of the Learned Commissioner of Income Tax (Appeals)-21, New Delhi ["Ld. CIT(A)", for short] dated 06.05.2019 for the Assessment Year 2015-16.
2. Brief fact of the case are, assessee filed its return of income declaring total income of Rs.10,24,410/- for Assessment Year 2015-16 on 31.08.2015. The return was processed under section 143(1) of the Income-tax Act, 1961 (for short 'the Act') at returned income. The case was selected for limited scrutiny through CASS for the reason of

“Purchase of property in Form 26QB” and “large investment in property (AIR) as compared to total income”. Accordingly, notices u/s 143(2) and 142(1) of the Act were issued and served on the assessee along with questionnaire. In response, ld. AR of the assessee attended from time to time and filed relevant information as called for.

3. Assessee is a pensioner and declared income of receipt of pension and from other sources. The AO observed that as per the information available with Individual Transaction Statement (ITS) through AIR information, assessee had purchased a movable property worth of Rs.1.12 crores. During assessment proceedings, assessee has filed return of income along with computation of income and copy of purchase deed vide letter dated 20.09.2016. On perusal of the same, he observed that assessee has purchased a plot at 3/604, Vasundhara, Ghaziabad (UP) for a sum of Rs.1.12 crores and paid stamp duty of Rs.7,50,000/-. When the assessee was asked to submit the sources of the investment for the above said property, assessee has submitted copy of sale deed of property of B-62, Surajmal Vihar, Delhi-110092 for Rs.1,00,01,000/-. He submitted that balance amount was obtained from M/s. Sumanglam Realtech Pvt. Ltd. (SRPL, in short) as unsecured loan of Rs.20,00,000/-. In order to verify the same, notice u/s 133 (6) was issued to SRPL and the same was reproduced in the assessment order. The AO observed that neither the

notice received back nor any reply was submitted till 06.12.2017. He further observed that during assessment proceedings, Id. AR of the assessee attended on 13.11.2017 and informed about the issue of notice u/s 133(6) to the lender and their non-response and he was asked to produce the party from whom unsecured loan was obtained. Accordingly, another notice was issued to the assessee in this regard. In response, assessee has submitted copy of confirmation, copy of return of income and bank statement for the period 01.05.2014 to 15.05.2014. On perusal of the documents submitted by the assessee, AO observed that SRPL filed the return of income for AY 2015-16 on 24.09.2015 declaring income of Rs.5,68,819/- and further observed that on perusal of the bank statement, the company gets a credit of an amount which were later transferred to some other account. Therefore, he came to the conclusion that the fund obtained by the assessee is not genuine. Accordingly, assessee was asked to produce the Director of the company and accordingly Director of SRPL attended on 27.12.2017. Based on the statement recorded from the Director of SRPL and also the Balance Sheet, AO observed that assessee is ex-Director of SRPL and assessee has taken unsecured loan from the company and there was no agreement signed by the assessee and also loan taken by the assessee is interest free whereas the company incurs huge bank interest. Accordingly, he was of

the view that company on the one hand given unsecured loan to the assessee without charging any interest, at the same time incurring huge interest expenditure. Therefore, he came to the conclusion that the company has given interest free loan on which it is paying interest and came to the conclusion that the money received by the assessee is assessee's own fund. Therefore, he proceeded to make abovesaid addition as undisclosed income in the hands of the assessee.

4. Aggrieved with the above order, assessee preferred an appeal before the Id. CIT(A) and filed detailed submissions. After considering the detailed submissions, Id. CIT(A) sustained the addition made by the AO by observing that company from which assessee has claimed to have obtained loan is private limited company and it is bound to abide by the provisions of Companies Act, 2013 and for giving such loan, it is also governed by the provisions of section 186 of the Companies Act, 2013. Therefore, it is not established that company in question has complied with abovesaid provisions before giving loan to the assessee. Thus, in the context of the abovesaid facts on record, the genuineness of transaction and creditworthiness of the company remained unexplained.
5. Aggrieved with the above order, assessee is in appeal before us raising following grounds of appeal :-

- “1. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the addition of Rs.20,00,000 and that the order passed by the Ld. CIT(A) is bad in law.
 2. That on the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in understanding the facts & circumstances of the case and relied on non-applicable judicial precedents.
 3. That on the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in passing the order just based on surmises & conjectures and ignored the factual details submitted during assessment/ appellate proceedings.
 4. That on the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in passing the order by raising doubt on "commercial expediency" of lender company and compliance/non-compliance of provisions under Companies Act 2013 by lender company.”
6. At the time of hearing, ld. AR of the assessee submitted that assessee is a retired Government employee and aged 74 years and a law abiding citizen. Assessee has purchased a house property of Rs.1.12 crores during the impugned assessment year by selling an existing residential property worth Rs.1 crore and obtained an unsecured loan of Rs.20 lakhs. He submitted that during assessment proceedings, assessee has submitted all the details to prove the identity, creditworthiness and genuineness of the transaction. He submitted that the assessee has already satisfied identity and creditworthiness of the lender. However, the AO and ld. CIT (A) rejected the submissions of the assessee on the basis of genuineness of the transaction that too non-compliance of the lender as per the Companies Act. He submitted that as far as income-tax is concerned, the

assessee has already submitted all the relevant information from his side and proved the genuineness of the transaction.

7. On the other hand, ld. DR of the Revenue submitted that the issue under consideration is creditworthiness of the lender company and he brought to our notice findings of the AO.
8. Considered the rival submissions and material placed on record. We observed that assessee has purchased a property by obtaining unsecured loan from company in which assessee is an ex-Director. We observed that assessee has submitted all the relevant information relating to the abovesaid transaction. It is fact on record that assessee has obtained the abovesaid unsecured loan from the company through banking channel and being a Director of the company, assessee has obtained abovesaid loan interest free. The AO recorded statement of oath from one of the Directors of the company who confirmed that the company has given unsecured loan without interest to the assessee. The assessee also submitted confirmation letters from the lender company. We observed that ld. CIT (A) has rejected the plea of the assessee on the ground that company has not followed due process of lending money as per the Companies Act, 2013. We observed that there is no denial of the fact that assessee has received unsecured loan from the company and assessee has filed the documentation, like, confirmation letter, bank statement and also

brought one of the Directors before the AO who have confirmed that assessee has received the unsecured loan from the company. The tax authorities rejected the plea of the assessee on the basis that assessee has obtained the abovesaid unsecured loan interest free and they presumed that the money belongs to the assessee. Since the assessee has submitted all the relevant documentation as required u/s 68 of the Act and also the other party has already filed the confirmation and also recorded submission on oath that they have given unsecured loan to the assessee. Therefore, we are inclined to allow the grounds raised by the assessee and observed that assessee has proved the onus of receiving the abovesaid unsecured loan. Accordingly, grounds raised by the assessee are allowed.

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

Order pronounced in the open court on this 28th day of May, 2025.

SD/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 28.05.2025
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI