

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'G' NEW DELHI)
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER**

ITA No. 4793/Del/2024 (A.Y. 2017-18)

Sperry Plast 208, 2 nd Floor, Akashdeep Building, Barakhamba Road, Connaught Place, S.O. Connaught Place, New Delhi PAN: AAACS2623L		Vs.	DCIT Central Circle-6, New Delhi
Appellant			Respondent
Assessee by	CA Amit Goel, Advocate Deepanshu Singla and Advocate Pranav Yadav		
Revenue by	Sh. Mahesh Kumar CIT(DR)		
Date of Hearing		06/05/2025	
Date of Pronouncement		04/06/2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

This appeal is filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-24, New Delhi ('Ld. CIT(A)' for short) Delhi dated 16/08/2024 for the Assessment Year 2017-18.

2. The grounds of Appeal are as under:-

"1. That under the facts and circumstances of the case, the impugned order dated 16.08.2024 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), partly dismissing the grounds of appeal and sustaining the addition of Rs. 2,50,00,000/- in place of returned income as returned by the assessee is bad in law on account of several grounds and assessee/appellant denies its liability to be assessed for any income other than the income already returned by the assessee and any consequential demand thereon.

2. That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order, as the Ld. CIT(A) has upheld the part addition made by the Ld. AO in the violation of principle of natural justice and without following the statutory requirements.

3. That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order as the Ld. CIT(A), has sustained the addition of Rs. 2,50,00,000/- without considering the evidences submitted by the assessee during the course of appeal proceedings in regards to the genuineness of the alleged transactions.

4. That appellant craves to leave, alter, amend or modify the grounds of appeal before or during the hearing of the appeal.

That each ground is independent and without prejudice to each other.”

3. Brief facts of the case are that, the Assessee filed return of income declaring NIL. The case of the Assessee was selected for scrutiny under CASS. Statutory notices were issued and assessment proceedings initiated against the Assessee. An assessment order came to be passed u/s 143(3) of the Act on 30/12/2019 by making an addition u/s 68 r.w. Section 115BBE of the Act of Rs. 22,01,62,000/- treating the unsecured loans received as bogus entries and further made addition of Rs. 24,42,000/- being cash deposited by the Assessee in the bank account during the demonization period treating the same as undisclosed income of the Assessee. Aggrieved by the assessment order dated 30/12/2019, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated

16/08/2024, deleted the addition of Rs. 19,51,62,000/- in respect of unsecured loans of 16 parties and confirmed the addition of Rs. 2,50,00,000/- made in respect of two parties namely Bhargabi Vinimav Pvt. Ltd. (2,00,00,000/-) and Pioneer Dealtrade Pvt. Ltd. (50,00,000/-). Aggrieved by the order of the Ld. CIT(A) dated 16/08/2024 in upholding the partial addition, the Assessee preferred the present Appeals on the Grounds mentioned above.

4. It is relevant to mention that aggrieved by the deletion of the partial addition made by the Ld. CIT(A), the Department of Revenue has not preferred any Appeal.

5. Grounds of Appeal of the Assessee are regarding sustaining the addition of Rs. 2,50,00,000/- made by the A.O. on account of unsecured loan in respect of two parties i.e. Bhargabi Vinimav Pvt. Ltd. (2,00,00,000/-) and Pioneer Dealtrade Pvt. Ltd. (50,00,000/-).

6. The Ld. Counsel for the Assessee submitted that during the Remand Proceedings, A.O. made independent enquires from the above two parties by issuing notice to them. Notice issued by the A.O. were duly complied and replied by both the parties. The Assessee has produced all relevant documents to discharge the onus casted upon it u/s 68 of the Act. The A.O. has not considered confirmation, ITR acknowledgment, audited financial statement and bank statement of the creditors. Further the Ld. Assessee's Representative also

submitted that out of 2 crore, loan of Rs. 1,85,00,000/- was repaid within two days and remaining 15,00,000/- has been paid within a month, which is much before the assessment was reopened. The said fact itself proves the bona-fide of the transaction. The Assessing Officer has not doubted the identity of the creditors and the creditworthiness of the creditors. The A.O. has only doubted about the genuineness of the transaction and the Assessee has furnished all the necessary details and documentary evidence to discharge its onus u/s 68 of the Act. However, the authorities below have committed error in confirming the addition, thus, sought for deleting the same by allowing Grounds of the Assessee.

7. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authority is for dismissal of the Ground No. 1 of the Assessee.

8. We have heard both the parties and perused the material available on record. In the assessment proceedings, the Ld. A.O. made addition in respect of unsecured loans from 18 parties on the ground that the Assessee failed to submit necessary documents. Before the Ld. CIT(A), the Assessee filed an application for admission of additional evidence under Rule 46A of Income Tax Rules. The Ld. CIT(A) called for Remand Report and based on the Remand Report, out of 18 parties, Ld. CIT(A) deleted the addition to the extent of Rs.

19,51,62,000/- pertaining to unsecured loan of 16 parties and confirmed the addition of Rs. 2,50,00,000/- in respect of two parties namely Bhargabi Vinimav Pvt. Ltd. and Pioneer Dealtrade Pvt. Ltd.

9. During the Remand Proceedings, the A.O. made independent enquiries from the above two parties by issuing notice to them. The notice issued by the A.O. has been duly served and both the parties have replied. In so far as Bhargabi Vinimav Pvt. Ltd., the reason assigned for the addition is that the reserve and surplus of the loan creditor was low and the loan creditor company had shown meager income. It is well settled law that the loan creditor creditworthiness is not only restricted to the current year income u/s 68 of the Act. What is relevant is the source and such source is not confined to current year income only. The source could be out of many factors such as money paid within its net-worth out of loan raised by them or out of income earned by them. As per the balance sheet of Bhargabi Vinimav Pvt. Ltd. they had availability of total source of fund of Rs. 26,36,29,338/- as on 31/03/2016 and Rs. 23,05,32,310/- as on 31/03/2017 respectively.

10. It is relevant to mention that the Assessee had taken total loan of Rs. two crore on 24/05/2016, out of which, Rs. 1,85,00,000/- was paid back within two days and remaining amount of Rs. 15,00,000/- was paid back within a month.

11. In so far as Pioneer Dealtrade Pvt. Ltd. is concerned, the Assessee had furnished confirmation, ITR Acknowledgment, Audited Financial Statement and bank statement of the loan creditor. At no point of time, A.O. doubted identity of the creditor and the creditworthiness of the creditor. The A.O. has only doubted the genuineness of the transaction. At the cost of repetition, it is observed that the notice issued by the Assessing Officer has been served and duly responded by the creditor by confirming the transaction with the Assessee Company submitted the document i.e. confirmation, ITR balance sheet and bank statement. Thus, there was no reason for the authorities below for doubting the genuineness of the transaction. As per the balance sheet of the Pioneer Dealtrade Pvt. Ltd. they had availability of total net worth of Rs. 57,96,69,322/- as on 31/03/2016 and Rs. 57,92,14,703/- as on 31/03/2017.

12. In the present case, the identity of the loan creditor are established. The creditors are existing income tax Assessee's and also having bank accounts. Therefore, there cannot be any chance to doubt their identity. Since, the transactions have been taken place by account payee cheque, the genuineness of the transaction is also established beyond doubt and the loan has been paid back through banking channel apart from proving the creditworthiness of the loan creditor. Considering the above facts and circumstances, we find no

reason to sustain the addition, accordingly addition sustained by the Ld. CIT(A) is hereby deleted. Finding merits in Grounds of the Assessee, the same are allowed.

13. In the result, the Appeal of the Assessee is allowed.

Order pronounced in the open court on 04th June, 2025

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

Date:- 04.06.2025

R.N, Sr.P.S*

**Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

