

आयकर अपीलीय अधिकरण
दिल्ली पीठ "ए", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस रिफौर रहमान, लेखाकार सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
आअसं.3513/ दिल्ली /2019 (नि.व. 2013-14)
ITA No. 3513/Del/2019 (A.Y. 2013-14)

Income Tax Officer, Ward-4(4),
R. No. 385A, 3rd floor, CR Building, IP Estate,
New Delhi 110002

..... अपीलार्थी/Appellant

बनाम Vs.

Bharatpuria Finance and Investment Ltd.,
C-4/164, Keshav Puram, Delhi 110035
PAN: AAACB-3662-N

..... प्रतिवादी/Respondent

Assessee by : Shri Ravi Saini, Managing Director
Department by: Shri Ashish Tripathi, Sr. DR

सुनवाई की तिथि/ Date of hearing : 24/04/2025

घोषणा की तिथि/ Date of pronouncement: : 09/07/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-2, New Delhi (hereinafter referred to as 'the CIT(A)') dated 23.01.2019, for assessment year 2013-14.

2. Brief facts of the case as emanating from records are: The assessee is a non banking finance company. The assessee filed its return of income for the impugned assessment year declaring NIL income and claiming current year loss of Rs.4,02,609/-.

During the course of assessment proceedings, the Assessing Officer (AO) made following additions:

- “i. undisclosed source of income addition u/s. 68 of the Act Rs.4,50,00,000/-;*
- ii. disallowance for not deducting TDS on the remittances made outside India Rs.2,32,19,000/-;*
- iii. notional interest @12% on the loans and advances given to the different parties Rs.48,70,326/-;*
- iv. unexplained cash credit Rs.25,00,000/-; &*
- v. disallowance of depreciation Rs.2,74,748/-.”*

3. Aggrieved by the additions made in assessment order dated 21.03.2016 passed u/s. 143(3) of the Income Tax Act,1961(hereinafter referred to as ‘the Act’), the assessee filed appeal before the CIT(A). The First Appellate Authority after examining documents on record and considering submissions of the assessee deleted additions/disallowances at Serial No. i, iii, iv and partly allowed assessee’s claim on depreciation at Sr. No (v). Against findings of the CIT(A), the Revenue is in appeal assailing deleting of additions on account of; income from undisclosed sources Rs.4,50,00,000/-, unexplained cash credit u/s. 68 of the Act Rs.25,00,000/- and allowing depreciation on fixed assets (computer) Rs.14,941/-.

4. Shri Ashish Tripathi, representing the department vehemently supporting findings of the AO, prayed for reversing findings of the CIT(A) in deleting the additions on account of income from undisclosed sources, unexplained cash credits u/s. 68 of the Act and allowing depreciation on computers. The Id. DR submitted that the assessee failed to furnish any documentary evidences before the AO in support of its claim in respect of the aforesaid three additions. Hence, the AO made additions.

5. Per contra, Shri Ravi Saini, Managing Director of the assessee company strongly defended the impugned order and prayed for dismissing appeal by the Revenue. He submitted that the assessee had received Rs.4,50,00,000/- as advance against the deposit of original title deeds of the land situated at Banur, Punjab. The said land was owned by PACL. The title deeds were deposited for safe custody with State Bank of Paitala (Now State Bank of India, Nehru Place, Delhi). These facts were explained to the AO. The AO failed to appreciate the same. The CIT(A) reexamined the issue and came to the conclusion that amount of Rs.4,50,00,000/- received by the assessee was very well explained and hence, deleted the addition. He further submitted that the amount of Rs.25,00,000/- was wrongly added by the AO without examining documents on record. The CIT(A) deleted addition after coming to the conclusion that the assessee was able to discharge its onus in proving identity and creditworthiness of the lender. With regard to the last ground of appeal relating to depreciation on computers, he submitted that the CIT(A) after examining the books of the assessee and the documentary evidences furnished by the assessee partly accepted assessee's claim of depreciation.

6. Both sides heard, orders of the authorities below examined. The Revenue in appeal has assailed findings of the CIT(A) in deleting addition of Rs.4,50,00,000/- made u/s. 68 of the Act being undisclosed income. A perusal of the assessment order reveals that no submissions/detailes were filed by the assessee before the AO. In the absence of any reply to the query raised by the AO, the AO made aforesaid addition. When the matter travelled before the First Appellate Authority, the assessee explained with the documentary evidences that the amount of Rs.4.50 crores was received through RTGS in accordance with the agreement signed between the assessee and PACL. As per the agreement the said amount was to be refunded by the assessee, if the assessee fails to bring desired Rs.1500 crore debt funding for PACL for completion of project in Banur,

Punjab. PACL also gave the assessee Rs.3300 crores worth of assets as collateral to be kept in safe custody with the bank. The CIT(A) after examining the agreement concluded that security deposits received by the assessee from PACL does not acquire the nature of income. Hence, cannot be added as income of the assessee. The assessee did not have complete domain over the deposits and was under legal obligation to repay the security deposits to PACL. We find no infirmity in findings of the CIT(A), hence, ground no. 2 raised in appeal by the Revenue is dismissed being devoid of any merit.

7. In ground no. 2 of appeal, the Revenue has assailed deleting of addition of Rs.25,00,000/- u/s. 68 of the Act on account of unexplained cash credit. The AO has made addition for the reason that the assessee allegedly fail to prove identity and creditworthiness of the lender and genuineness of the transaction. The CIT(A) after considering the issue has given categorical finding that the assessee had taken unsecured loan of Rs.25,00,000/- from M/s. Malik Solars India P. Ltd. The assessee had furnished a copy of PAN, ITR, Balance Sheet and P&L account of the said lender along with computation of income for AY 2014-15. The CIT(A) further observed that from Balance sheet that the said lender has Share Capital of Rs.1,00,000/- and Long term borrowings of Rs.50,00,000/-. The said party has further advanced loans of Rs.50,00,000/-. From documentary evidences furnished by the assessee, identity and the capacity of the lender and the genuineness of transaction is proved. Hence, the CIT(A) deleted the addition. The Id. DR failed to controvert findings of the CIT(A) on this issue. In absence of any contrary material, we see no reason to interfere with the findings of the CIT(A), hence, ground no. 2 of appeal is dismissed.

8. In ground no. 3 of the Department appeal, the Revenue has assailed disallowance of depreciation on computers Rs.14,941/-. During assessment proceedings, the AO disallowed depreciation of Rs.2,74,748/- on car and computer as the assessee failed to place on record bills for procuring said assets. The CIT(A) after considering the documents furnished by the assessee, rejected assessee's claim of depreciation on car but allowed assessee claim of depreciation to the tune of Rs.14,941/- on computers and thus granted part relief to the assessee on this issue. We observe that the order of the CIT(A) in allowing deprecation on computers is fair and reasoned, hence, warrants no interference.

9. In the result, order of the CIT(A) on the issues raised before us by the Revenue in its appeal are upheld and appeal of the Revenue is dismissed.

Order pronounced in the open court on Wednesday the 09th day of July, 2025.

Sd/-

(S RIFAUH RAHMAN)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 09/07/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

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BY ORDER,

(Asstt. Registrar) ITAT, DELHI

	Details	Date
1	Draft of dictation of Tribunal order	2 & 3.07.2025
2	Draft on which the typed draft Tribunal order is placed before the Dictation Member	04.07.2025
3	Date on which the typed draft Tribunal order is placed before the other Member	
4	Date on which the approved draft Tribunal order comes to the Sr.PS/PS	
5.	Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement	
6.	Date on which the signed order comes back to the Sr.PS/PS	
7.	Date on which the final Tribunal order is uploaded by the Sr.PS/PS on official website	
8	Date on which the file goes to the Bench Clerk alongwith Tribunal Order	
9	Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks	
10	Date on which the file goes to the Supervisor (Judicial)	
11	Date on which the file goes for Xerox	
12	Date on which the file goes for endorsement	
13	Date on which the file goes to the superintendent for checking	
14	The date on which the files goes to the Assistant Registrar for endorsement of the order	
15	Date on which the file goes to dispatch section	
16	Date of dispatch of the order	