

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

माननीय श्री मनु कुमार गिरि ,न्यायिक सदस्य एवं माननीय श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
HON'BLE SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1436/Chny/2025
Assessment Years: 2018-19

Income Tax Officer,
Non-Corporate Circle-19(6),
Chennai.

Roopa Maganti,
No.184-187, Temple Steps, Ground
Floor 4th Block, Little Mount,
Anna Salai,
Chennai-600 015.
[PAN: AEOPR5992L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Mr.B.Ramakrishnan, F.C.A.

प्रत्यर्थी की ओर से /Revenue by

: Mr.P.Krishna Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 14.08.2025

घोषणा की तारीख /Date of Pronouncement

: 04.09.2025

आदेश / O R D E R

PER AMITABH SHUKLA, A.M :

This appeal is filed by the Revenue against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1074185670(1) dated 07.03.2025 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment year 2018-19. The reference to the word "Act" in this order

hereinafter shall mean the Income Tax Act, 1961 as amended from time to time.

2.0 The only issue in the present appeal contested by the Revenue through its grounds of appeal are regarding deletion of addition of Rs.3,69,00,000/- made by the Ld.AO u/s 68 of the Act.

3.0 Brief factual matrix of the case is that the assessee is engaged in the business of financing. During the year under consideration it was noted that she has taken unsecured loan of Rs.3,69,00,000/- from seven parties. The Ld.AO attempted to verify identity, creditworthiness and genuineness of transaction qua the said loans. The assessee submitted details like PAN Nos, copies of ITRs etc filed. The Ld.AO however proceeded to make the impugned addition holding that the assessee has failed to establish creditworthiness, identity and genuineness of transaction. In appeal before the Ld.CIT(A), the assessee furnished further details in support of veracity of the unsecured. The Ld.CIT(A) gave two chances to Ld.AO for holding, enquiries as deemed appropriate in the said unsecured loan of Rs.3,69,00,000/- from seven parties. The Ld.AO submitted the remand report accepting loan from one party and for the balance six it held that in their cases creditworthiness, identity and genuineness of transaction was not established. The said six cases included two parties who had not responded to AO's notices u/s 133(6). Records indicate that the Ld.AO

did not record any statement of the said six parties. The Ld.CIT(A) observed that the assessee has furnished all details qua impugned parties so as to allude genuineness of the loans and therefore no adverse conclusions can be drawn. While concluding so, the Ld.CIT(A) also took note of the fact that the said loans were squared off in the following years, interests were paid and the transactions had been routed through banking channels. It was concluded that Hon'ble Bombay High Court in the case of Chawla Interbuild Construction Company have held that mere non-appearance of the party does not tantamount that payments are non-genuine. The Ld.CIT(A) also placed reliance upon a catena of decision on the subject pronounced by Hon'ble ITAT Benches, Hon'ble High Court of Bombay and Gujarat as well as those delivered by Hon'ble Apex Court.

4.0 Per contra, the Ld.DR relied upon the order of Ld.AO.

5.0 The Ld.Counsel for the assessee has submitted that the order of Ld.CIT(A) is based upon correct understanding and interpretation of facts of the case and does not require any intervention at this stage. It was submitted that the assessee had provided all the evidences, during the assessment as well as remand proceedings, which was in its possession to justify the creditworthiness, identity and genuineness of transaction of the loan lenders. It was argued that the assessee had fulfilled the obligation put on it u/s 68. The Ld.Counsel has vehemently argued that

no independent enquiry like summoning of the lenders was done and that the Ld.AO has merely drawn his unilateral conclusions based upon submissions filed by the assessee. It was also argued that even during the remand proceedings, the Ld.AO did not give any opportunity of hearing to the assessee before drawing his adverse conclusions. The Ld.Counsel accordingly argued in favour of the order of Ld.CIT(A).

6.0 We have heard the rival submissions in the light of material available on records. Section 68 of the Act places primary responsibility, of satisfying the Revenue authorities, qua unsecured loans taken during the year upon the assessee. We have noted that though the compliance of assessee during the assessment stage was unsatisfactory, but during the appellate stage the assessee made good for its earlier deficient compliance. Thus, the burden of proof had shifted from the assessee to Revenue. There is nothing on record to indicate that Ld. assessing officer conducted any enquiry on the details and documents provided by the assessee either the assessment stage or the appellate stage. Thus, the Revenue in spite of having got repeated opportunities failed to discharge its responsibility. The Ld.AO has concluded that loan in respect of two parties who have not responded cannot be taken as genuine. But no independent enquiry was done by the Ld.AO in respect of said two parties. We have noted that the Ld.CIT(A) in para 14 to 22 of his order on pages 22 to 24

extensively and objectively dealt the issue both in the light of statutory provisions as well as judicial precedents. We have also noted that the conclusions drawn by the Ld.AO also revolve around the premise of examining source of source which is not permissible by law. Accordingly, we are of the considered view that the order of the Ld.CIT(A) is based upon correct understanding of the facts of the case and does not require any intervention at this stage. Accordingly, all the grounds of appeal raised by the Revenue are dismissed.

7.0 In the result, the appeal of the Revenue is dismissed.

Order pronounced on 4th , Sept-2025 at Chennai.

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 4th , Sept-2025.

KB/-

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF