

IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'F' : NEW DELHI)

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

AND

SHRI KRINWANT SAHAY, ACCOUTANT MEMBER

ITA No. 9546/Del/2019 (AY 2015-16)

ITO, WARD 35(2),  
NEW DELHI

**(Appellant)**

vs. R.B. TRADERS,  
UA-63, JAWAHAR NAGAR,  
KAMLA NAGAR,  
DELHI – 110 007  
(PAN: AARFR9102M)  
**(Respondent)**

Assessee by : Sh. S.K. Gupta, CA  
Department by : Ms. Harpreet Kaur Hansra, Sr.DR

Date of Hearing	28.08.2025
Date of Pronouncement	24.09.2025

**ORDER**

**PER KRINWANT SAHAY, AM:**

This appeal filed by the Revenue is against the order of the Ld. CIT(A)-12, New Delhi dated 30.09.2019 relating to assessment year 2015-16 on the following revised grounds-

“1. The Ld. CIT(A) has erred in allowing the appeal of the assessee by ignoring the fact that the assessee has not paid any interest on the loan taken by him from M/s MM Organic Fertilizers Pvt. Ltd. as per the written agreement between mortgagor and mortgagee.

2. The Ld. CIT(A) has erred in allowing the appeal of the assessee by observing that during the course of assessment proceedings assessee failed to prove the creditworthiness of M/s MM Organic Fertilizers Pvt. Ltd. from whom he has taken loan on Rs. 2,01,00,000/- by mortgaging property in the name of his mother.

3. The Ld. CIT(A) has erred in allowing the appeal of the assessee by ignoring the fact that the property mortgaged was belong to the mother of the assessee.

2. Briefly stated, the facts of the case are that the capital of the Assessee as on 31.03.2015 was Rs.2 Crores. To explain the source of the Assessee submitted that Rs.2 Crores was received from M/s M M Organic Fertilizers Pvt. Ltd. after mortgaging the property of his mother. The Assessing Officer remarked that as per the agreement mortgagor will have to pay interest on the said sum @ 12% per annum from the date of advance till repayment thereof by the mortgagor to the mortgagee. It is further remarked that the Assessee had not paid interest on this loan. M/s M M Organic Fertilizers Pvt. Ltd. had outstanding liability of Rs.2,00,10,358/- as short term loan. According to the Assessing Officer, the creditworthiness of this company was not proved. The property which was mortgaged did not belong to the Assessee. M/s M M Organic Fertilizers Pvt. Ltd. was not engaged in business activity. On these facts, the Assessing Officer observed that the introduction of capital by Sh. Tarun Dhawan,

Partner is not genuine. He, therefore, added Rs.2 Crores to the total income. The Assessee has, inter alia, submitted that it is a partnership firm engaged in the business of supplying and trading of high quality fabrics like pure silk, raw silk, new fabrics, poly silk, poly dupion, satin, georgette, tabby silk, cotton matka, pure silk zary brocades, etc. It has been maintaining regular books of account subjected to audit. It has been filing its income tax returns regularly alongwith audited balance sheet. The income tax return for the year under consideration was filed declaring income of Rs.2,92,730/-. The Assessee submitted the following documents relating to the loan of Rs.2 Crores from M/s M M Organic Fertilizers Pvt. Ltd. :

- i. Copy of the saving bank account of Tarun Dhawan (Partner)
- ii. Copy of the balance sheet and Profit & Loss account of Tarun Dhawan.
- iii. Copy of agreement of mortgage
- iv. Copy of the bank statement and audited balance sheet and profit & loss account of M/s M M Organic Fertilizers Pvt. Ltd.
- v. Copy of mutation document and municipal tax receipts of the property owned by Mrs. Kamini Dhawan, M/o Tarun Dhawan

The Assessing Officer has added Rs.2 Crores on account of introduction of capital in the firm by the partner. Against the same, Assessee preferred appeal before the Ld. CIT(A), who vide his

impugned order dated 30.09.2019 has partly allowed the appeal of the assessee. Aggrieved, with the action of the Id. CIT(A), Revenue is in appeal before us.

3. At the time of hearing, Ld. DR relied the order of the AO. Per contra, Ld. AR for the assessee relied upon the order of the Ld. CIT(A) and submitted that Ld. CIT(A) has passed a well reasoned order which does not require any interference on our part.

4. We have heard both the parties and perused the records. We find that the capital was introduced by the partner of the firm in the books of the Appellant firm. It has been explained that the partner took loan from M/s M M Organic Fertilizers Pvt. Ltd. after having mortgaged the property owned by his mother. The Assessee has submitted the copy of the bank statements showing the transactions through banking channel. The Assessee has also furnished the copy of the balance sheet and the profit & loss account of M/s M M Organic Fertilizers Pvt. Ltd. Thus the Assessee has explained the source of the funds introduced as capital. There is no report against M/s M M Organic Fertilizers Pvt. Ltd. that it was involved in any kind of dubious activity. Hence, it can be stated that the Assessee has proved the identity and capacity of the creditor, which was partner of the firm in this case. The Assessing Officer's contention is that the transactions are not genuine because the interest was not paid by the partner to M/s M M Organic Fertilizers Pvt. Ltd. But there may be other reasons, like the poor financial condition of the borrower, behind not paying the

interest. As far as the genuineness of the transaction is concerned, there is no material fact mentioned by the Assessing Officer to doubt the genuineness of the transaction. The Assessing Officer has not brought on record any fact that the money advanced by M/s M M Organic Fertilizers Pvt. Ltd. to the partner of the firm was actually the money of the Assessee firm. Hence, no addition can be sustained merely on the basis of doubt or suspicion. Therefore, the addition made by the Assessing Officer was rightly deleted by the Ld. CIT(A). Keeping in view of the aforesaid background, we do not find any infirmity in the order of the Ld. CIT(A), hence, we uphold the same wherein, the Ld. CIT(A) deleted the addition in dispute. Accordingly, the ground raised by the Revenue stands rejected.

5. In the result, the Revenue's appeal stands dismissed in the aforesaid manner.

Order pronounced in the Open Court on 24-09-2025

Sd/-  
**(Anubhav Sharma)**  
**Judicial Member**

Sd/-  
**(Kriwant Sahay)**  
**Accountant Member**

*Date: 24-09-2025*

**Copy forwarded to: -**

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

Assistant Registrar, ITAT,