

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं.4446/दिल्ली/2025 (नि.व. 2018-19)
ITA No.4446/DEL/2025 (A.Y.2018-19)

Sidhi Vinayak Foundation,
H No. 33, Village- Khijurka,
Tehsil Palwal, Haryana 121102

PAN: AAAJS-4314-B

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer,
Exemption Ward, Faridabad,
Haryana 121001

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/Appellant by

: Dr. Rakesh Gupta, Advocate &
Ms. Shilpa Gupta, Chartered Accountant

प्रतिवादीद्वारा/Respondent by

: Shri Manoj Kumar, Sr. DR

सुनवाई की तिथि/ Date of hearing

: 16/12/2025

घोषणा की तिथि/ Date of pronouncement

: 14/01/2026

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 23.05.2025, for Assessment Year 2018-19.

2. Dr. Rakesh Gupta, appearing on behalf of the assessee submits that the assessee is a Society Registered under the Haryana Registration and Regulation of Societies Act, 2012 and is engaged in educational activities. The assessee is running a school in the name of 'The Millennium School'. During the period relevant to assessment year under appeal, the assessee had received unsecured loans

amounting to Rs.2,87,00,000/- from three persons. One of such person was Shri Chander Hash from whom a loan of Rs.16,00,000/- was received during the year. On earlier occasion unsecured loan of Rs.6,00,000/- was received by the assessee from Shri Chander Hash. During assessment proceedings for AY 2018-19, the Assessing Officer (AO) asked the assessee to prove identity, creditworthiness and genuineness of the borrowings from Shri Chander Hash. The assessee furnished copy of bank statement, Income Tax return acknowledgment in Form ITR-3, computation of income, copy of PAN card of Shri Chander Hash. The AO insisted for furnishing of statement of affairs of Shri Chander Hash. At that time Shri Chander Hash was critically ill and gone into acute medical condition of Acute Ischemic Stroke and Acute Diabetic Ketoacidosis and later had slipped into a coma, the assessee could not furnish his statement of affairs. Subsequently, vide reply dated 26.03.2021 the assessee clarified to the AO that since Shri Chander Hash is a partner in a firm, he has no business income, therefore, he is not required to prepare statement of affairs. The assessee is Chartered Accountant by profession and had income from remuneration and interest from partnership firm. The unsecured loan was advanced by Shri Chander Hash from his legitimate source and from his previous and current personal savings. No cash was deposited during the year in his bank account before advancing unsecured loan to the Society (assessee). The unsecured loan was advanced by Shri Chander Hash through proper banking channel from the funds available in his bank account. The AO rejected submissions of the assessee and made addition of Rs.16,00,000/- treating to be income from unexplained source in the hands of the assessee. The assessee carried the issue in appeal before the CIT(A). The assessee referring to various document already furnished to the AO explained the source of unsecured loans advanced by Shri Chander Hash to the assessee. The CIT(A) also rejected submissions of assessee and

insisted for furnishing statement of affairs of Shri Chander Hash and finally dismissed appeal of the assessee. Hence, the present appeal.

3. Per contra, Shri Manoj Kumar representing the department vehemently defended the impugned order. The Id. DR submits that Shri Chander Hash had advanced unsecured loan of Rs.16,00,000/- to the assessee. Whereas, as per his return of income for the corresponding period, his total income is Rs.2,86,920/- after claiming deduction under Chapter 6A of the Act. The loan advanced by Shri Chander Hash was not commensurate to his income for the year under consideration. The assessee failed to discharge his onus in proving creditworthiness of the lender, therefore, the AO made addition of Rs.16,00,000/- and the same was confirmed by the CIT(A).

6. Both sides heard, orders of the authorities below examined. The short issue in the instant appeal is the determination of creditworthiness of Shri Chander Hash who had advanced unsecured loan of Rs.16,00,000/- to the assessee. The contention of the assessee is that Shri Chander Hash is a man of means and has sufficient balance in his bank for advancing loan of Rs.16,00,000/- to the assessee. I find that the assessee's contentions have been rejected primarily for the reason that the assessee was not able to furnish statement of affairs of Shri Chander Hash. The documents already furnished by the assessee to discharge onus of proving creditworthiness of Shri Chander Hash was not even examined by the authorities below. At least from perusal of the orders of the authorities below it is not emanating that the bank statement was ever examined by the AO or the CIT(A). Considering entire facts of the case, I deem it appropriate to restore this issue back to the AO for limited purpose of examination of bank statement of Shri Chander Hash for the relevant period from which the loan has been advanced to the

assessee. If there are no cash deposits just prior to advancing of loan during the relevant period and the lender has sufficient own funds, in the bank account, no addition is warranted u/s.68 of the Act in respect of said loan. Examination of bank statement would be suffice to prove creditworthiness of the lender.

7. In the result, ground no. 1 to 4 of appeal are allowed for statistical purpose in the terms aforesaid.

8. The assessee has filed application dated 25.08.2025 for admission of additional ground of appeal. The Id. Counsel for the assessee has not pressed the said application. Hence, the said application is dismissed as not pressed.

9. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 14th day of January, 2026.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 14/01/2026

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.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI