

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER**

**ITA No. 678/Jodh/2024
(Assessment Year 2017-18)**

Badami Devi M/s SBL and co LLP (Chartered Accountant) E-75, Kalpatru Shopping Center, Opp. Bioscope Cinemas, Shastri Nagar, Jodhpur, Rajasthan-342003. PAN No. AAOPD1969R		Income Tax Officer, Ward No. -1 Barmer.
Assessee by	Shri Gautam Chand Baid, CA (Physical)	
Revenue by	Shri Lalit Kumar Bishnoi, Addl. CIT-DR Virtual	
Date of Hearing	28.01.2026.	
Date of Pronouncement	26.02.2026.	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), ADDL/JCIT (A) PANAJI, [hereinafter referred to as the JCIT (A)] dated 28.06.2024 with respect to Assessment Year 2017-18.

2. The appellant assessee has taken following grounds of appeal:-
1. *That on the facts and in the circumstances of the case, Ld. CIT(A) erred in upholding the addition made by Ld. AO for Rs. 19,00,000/- invoking provision of Section 68 on the finding that amount received as unsecured loan from Sh. Babul al Mutal Mal HUF Rs. 6,00,000/-, Sh. Hansraj Babulal HUF Rs. 3,00,000/-, Sh. Parasmal Bhansali Rs. 5,00,000/- and Smt. Anita Devi W/o Shri Parasmal Bhansali Rs. 5,00,000/- is unexplained. Submissions made by the assessee though reproduced in the order of CIT(A), has not been considered while adjudicating the matter, lead the order arbitrary. Addition, so made by Ld. AO and sustained by CIT (A) may kindly be deleted.*
 2. *The appellant crave liberty to add, amend, alter, modify or delete any of the ground of appeal on or before its hearing before your honour.*
 3. *The appellant prayed for the justice.*
3. The soul issue challenged by the Assessee in this appeal is regarding upholding the addition of Rs. 19,00,000/- under Section 68 without appreciating the material facts on record.
4. Briefly the facts of the case as per record are that the AO has treated the receipts of fresh loan from four persons as unexplained income u/s 68 of the Income Tax Act, 1961 (in short "the Act") ignoring

the details filed by the Assessee in compliance to notices issued by the AO during the course of Assessing Proceedings (Annexure-01).

5. The Assessee being aggrieved with the Assessment Order preferred an appeal before Ld. CIT/JCIT (A) who has uphold the addition merely by observing that the appellant was not able to prove the creditworthiness, genuineness and source of cash deposits in the case of 4 parties Mr. Babu Lal Multan Mal HUF, Mr. Hansraj HUF, Parasmal Bhansali and Anita Devi. The Ld. CIT(A) stated that in absence of any clinching documentary evidence or the plausible explanation, the AO has correctly passed the Assessment order by making addition of Rs. 19,00,000/- under Section 68 of the Act during the year under Consideration.

6. The Ld. AR for the Assessee has submitted that the confirmation of all relevant creditors to prove genuineness of loan taken from the aforesaid parties during the period under Consideration were provided in response to notice dated 24.07.2019 issued by the AO vide Annexure-02, Annexure-3 and Annexure-4. The AR further submitted that all the details about specific unsecured loans from 4 persons/creditors were provided in response to notice dated 20.08.2019 vide Annexure-05. The

Ld. AR argued that the AO has merely stated that the banking transactions and furnishing return of income does not establish the correctness of transaction and that the cash of Rs. 6,00,000/- was deposited on 14.11.2016, whereas, the cheque was issued to the Assessee on 08.12.2016 by Shri Babu Lal Multan Mal HUF for the year under consideration, the Ld. AR has argued that all the transactions questioned by the AO relating to loan taken by the Assessee have been transacted through banking channel by way of cheque and all the creditors are filing regular return of income with sufficient balance in their accounts. He further question the arbitrary decision taken by the Lower Authorities that without establishing or disproving the contrary that cash deposited in the creditor's Bank account were not genuine with the support of documentary evidences. The AR further argued that during the assessment proceedings, at no point of time the Ld. AO has raised any doubt about the genuineness of loan transaction executed by the Assessee, as all the information sought for, regarding the unsecured loans were provided by the Assessee. The Ld. AR has also referred to the Standard Office Procedure (SOP) led down CBDT vide file no. 246/151/17-A-PAC-1 dated 10/01/2018 being violated in applying Section 68 of Income Tax Act, where it is announced that if explanation

given by the Assessee was not acceptable and reliable by the AO, then he/she should give detailed reasoning not only in the Assessment order but communicate such reasoning with Assessee prior to framing the Assessment. In the present case this SOP is grossly violated by the AO which led the Assessment order void-ab-initio, being passed in violation to the CBDT directions. A copy of the SOP has been placed on record as (Annexure-6).

7. The AR further argued that the AO has recorded the statements of three persons/creditors out of the four disputed creditors in the back of the Assessee where all the three persons has admitted that they have advanced the amount to the Assessee out of their own money and source of advance of such money has also been explained then how such cash creditor could be treated as unexplained cash credit in the hands of Assessee that too without providing any opportunity of hearing about the said inquiry with these three persons carried by way of an autocratic approach which is contrary to the specific statutory provision of Section 142(3) of the Act. In support, he filed a list of case laws of judicial pronouncements (APB pages 16 to 18).

8. Learned Additional CIT DR on the other hand relied on the order of CIT (A)

9. Who have heard the rival submissions, perused the material on record and case laws cited before us. Admittedly the Assessing Officer has made addition of Rs. 19,00,000/- by invoking provisions of Section 68 of IT Act, 1961 by treating the aforesaid amount as unexplained money received from four persons/ loan creditors which has been confirmed by the Ld. CIT (A) although he admitted the facts that the said amount has been deposited by cheque in the bank account of respective cash creditors before advancing the same to the Assessee, transfers to the assessee through banking channel and there are filing return of income regularly.

10. It is noted that 3 creditors out of alleged 4 cash creditors had admitted and explained on oath the source of cash deposited in their Bank Accounts and that the loans were transferred to the appellant Assessee through Banking Channel by way of Account Pay Cheque. We find that the AO has not given any opportunity to the Assessee nor issued a show cause notice before arriving at the adverse conclusions while treating the creditors as unexplained income/money. It is also

noted that neither the AO nor the CIT(A) has disputed the transactions being executed through Banking Channel and the source explained by 3 of the creditors out of the 4. In the case of one of the creditors Shri Hansraj Babu Lal HUF, the amount of cash credit of Rs. 2,00,000/- was found recorded in the books of Assessee by the AO while he has made addition of Rs. 3,00,000/- under Section 68 of the Act, although by no stretch of imagination an addition of Rs. 3,00,000/- can be made again an entry of Rs. 2,00,000/- cash creditor, found recorded in the books of account. Such an observations itself proves the non-application of mind by the Assessing Officer in examination and verification of the cash creditors and in turn making addition by invoking Section 68 of the Act of 1961 in arbitrary manner.

11. It is pertinent to mention that the Assessing Officer has even violated the SOP laid down by CBDT vide instruction No. 246/ 151/17-A-PAC-1 dated 10/01/2018 for the purpose of applying provisions of Section 68 of Income Tax Act, 1961 as contended by the Ld. Counsel for the Assessee. Such a violation by the AO to the SOP issued by the CBDT directions rendered the Assessment Order void and nullity.

12. The Hon'ble Rajasthan High Court in the case of HS Builders 73 DTR 169 has observed that depositing of cash in the Bank Account immediately before transferring the amount as loan alone cannot be ground for treating the same as unexplained money. In the present case the cash amounts has been deposited even much before the date of transfer the amount by way of cheque as loan to the account of Assessee.

13. Considering the factual matrix and following the Hon'ble Jurisdictional High Court judgment, we hold that impugned order of Learned CIT (A) is perverse to the facts on record. We, therefore, accept the grievance of the Assessee as genuine and as such delete the addition of Rs. 19,00,000/- .

14. In the result, the appeal of the assessee is allowed.

Order pronounced on 26/02/2026 in the open court.

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated : 26/02/2026.

Pritesh Vaishnav PS

Sd/-
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

True Copy

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,