



ITA No.829/Mum/2018
Bharat Kumar Ludhani
Assessment Year :2012-13

आयकर अपीलीय अधिकरण “बी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No 829/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2012-13)

Bharat Kumar Ludhani 13, Shailesh CHS Ltd., Linking Road, Santacruz (W), Mumbai – 400 054.	बनाम/ Vs.	ACIT-Central Circle – 2(4), Mumbai.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. ACPPL-8007-K		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Revenue by	:	Ms. Kavita P. Kaushik-Ld.DR
Assessee by	:	Shri Rohit Golecha-Ld. AR

सुनवाई की तारीख/ Date of Hearing	:	23/01/2020
घोषणा की तारीख / Date of Pronouncement	:	05/02/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2012-13 contest the order of Ld. Commissioner of Income-Tax (Appeals)-48, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-48/IT-20/DCCC-2(4)/2016-17 dated 31/11/2017* on following grounds of appeal: -

1. On the facts and circumstances of the case as well as in law the Ld. CIT(A) erred in upholding the issuance of notice u/s 148 of the I.T. Act to reassess the income. Reasons assigned by him for doing the same are wrong and insufficient.



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2. On the facts and circumstances of the case as well as in law the Ld. CIT(A) has erred in upholding the addition of unsecured loan of Rs. 30,00,000/- made by the Ld. AO as unexplained cash credit u/s 68 of the I.T. Act 1961. Reasons assigned by him for doing the same are wrong and insufficient.
3. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in enhancing the income of the appellant by treating unsecured loan of Rs. 10,00,000/- as unexplained cash credit u/s 68 of the Act.
4. The appellant craves leave to add, alter or delete all or modify any or all the above grounds of appeal.

However, during hearing before us, Ld. Authorized Representative for Assessee (AR) submitted that ground no.1 of the appeal is not being pressed and accordingly, the ground no.1 stands dismissed as being *not pressed*. Ground No.4 is general in nature which would not require any specific adjudication on our part.

2.1 Facts on record would reveal that the assessee being resident individual was assessed for year under consideration u/s 143(3) r.w.s. 147 on 17/03/2016 at Rs.60.30 Lacs after certain additions of Rs.30 Lacs as against returned income of Rs.30.30 Lacs filed by the assessee on 31/07/2012.

2.2 The reassessment proceedings were triggered pursuant to search and survey action carried out by the department in the case of *Shri Praveen Kumar Jain group* on 01/10/2013. The search action resulted into collection of evidences and other findings which conclusively proved that the said group, through a web of concerns, was engaged in providing accommodation entries of varied nature like bogus unsecured loans, bogus share application and bogus sales etc. It was noted that the assessee was in receipt of unsecured loans of Rs.30 Lacs from one of the entities namely *M/s Atharv Business Pvt. Ltd.* belonging to said group.



2.3 Accordingly, the case was reopened by issuance of notice u/s 148 on 09/02/2015 which was followed by statutory notices wherein the assessee was directed to substantiate the stated transaction. Although the assessee defended the same, however, not convinced, Ld. AO rejected assessee's submissions and added the amount of Rs.30 Lacs to the income of the assessee.

3. Aggrieved the assessee contested the same before Ld. CIT(A), however without any success wherein Ld. CIT(A) not only confirmed the addition of Rs.30 Lacs but enhanced the addition by Rs.10 Lacs since it transpired that the assessee was in receipt of another unsecured loan of Rs.10 Lacs from another group entity namely *M/s Sumukh Commercial Pvt. Ltd.* Aggrieved, the assessee is under further appeal before us.

4. The Ld. AR submitted that the assessee had furnished sufficient documentary evidences to prove the genuineness of the transaction carried out with *M/s Atharv Business Pvt. Ltd.* These evidences were in the shape of relevant bank statements as well as loan confirmations of the lender, Copy of Income Tax Return Acknowledgement & Audited Accounts of the lender. The Ld. AO completely ignored the same and failed to carry out any independent investigation to bring on record any corroborative evidences to support the conclusions that the transactions were not genuine. *Au Contraire*, Ld. DR submitted that the assessee obtained entries from the tainted group and the search action revealed that the said group was engaged merely in providing accommodation entries of varied nature.

5. We have carefully heard the rival submissions and perused relevant material on record. The documents placed in the paper-book



establish that the assessee has placed on record confirmation of account statement & respective bank statements relating to transaction done with *M/s Atharv Business Pvt. Ltd.* The perusal of the same reveal that the assessee has obtained loan of Rs.30 Lacs from the said entity on 03/03/2012 through banking channels. The assessee has paid interest of Rs.27,616/- against the same on 31/03/2012. Further, this loan has subsequently been squared off on 16/05/2012 with interest of Rs.44,384/-. There are no immediate cash deposits in the bank account of said entity before transfer of funds to the assessee. The assessee has also placed on record the Income Tax Acknowledgement of the said entity as well as its audited financial statements, wherein the stated transactions have duly been reflected. Similar are the documents with respect to second entity namely *M/s Sumukh Commercial Pvt. Ltd.* The perusal of these documents would lead to a conclusion that the assessee had proved the identity of the lender, their creditworthiness and genuineness of the transactions. The onus was on revenue to rebut the same. However, except for relying upon the findings of investigation wing, no independent inquiries were conducted by Ld. AO to rebut the assessee's documentary evidences and corroborate the conclusion that the transactions were fictitious transactions. In fact, the assessee had repaid the unsecured loans to the lenders within a short span of time even before the search proceedings were carried out against the said group on 01/10/2013. Nothing was brought on record to demonstrate that any cash was exchanged between the assessee and the lenders. Therefore, accepting the arguments advanced by Ld. AR, we delete the impugned addition of Rs.40 Lacs.



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6. Resultantly, the appeal stands partly allowed in terms of our above order.

Order pronounced in the open court on 05th February, 2020.

Sd/-

Sd/-

(Mahavir Singh)
उपाध्यक्ष / **Vice President**

(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05/02/2020
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.