

**INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "F": NEW DELHI]**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA. No. 6334/Del/2017
(Assessment Year: 2014-15)

ACIT, Central Circle : 18, New Delhi.	Vs.	M/s. PBIL–Apex Consortium Ltd., 59/21–A, Ashok Nagar, New Delhi – 110 018. PAN: AACCP5108R
(Appellant)		(Respondent)

Assessee by :	Shri Arvind Jindal, C. A.;
Department by:	Shri Govind Singhal, Sr. D. R.;
Date of Hearing :	02/08/2021
Date of pronouncement :	02/08/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the ld. ACIT, Central Circle 27, New Delhi, raising the solitary ground of appeal that the ld.CIT (Appeals) has deleted the addition made by the ld. AO of Rs. 9,76,41,006/- under Section 68 of the Income Tax Act, 1961 (the Act) though the assessee has failed to discharge his onus of establishing the genuineness, capacity and identity of the creditors and mere production of the bank statement is not sufficient. The ld. CIT (Appeals) has deleted the above addition as per para No. 7 of his order holding that the above loans are outstanding loans received in the earlier years and therefore no addition u/s 68 can be made as the loans are not credited in the books of the assessee during this F Y.
2. The brief facts of the case shows that assessee is a company engaged in the business of civil construction having major contracts with Punjab

Government procuring business through tenders. During the year it has 8 projects.

3. It filed its return of income on 18.09.2014 declaring a loss of Rs.19,92,483/-. The assessment under Section 143(3) of the Act was passed on 18.12.2016 at Rs.9,90,21,040/- wherein the addition of Rs.9,76,41,006/- was made on account of various loans.
4. The facts leading to the above addition shows that during the course of assessment proceedings the ld. Assessing Officer noted that assessee has loans and advances amounting to Rs. 15,28,92,251/-. Assessee was asked to produce the specific details of year of receipt of loan, bank statement and confirmation of the party. The Assessing Officer noted that assessee has un-secured loan of Rs. 9,76,41,006/- from various companies which are interest-free. Though the assessee submitted balance sheets of some of the lender companies along with the bank statements, the AO held that assessee has not filed confirmation and, therefore, the genuineness of the loan is not proved. The AO further noted that these loans are outstanding for quite long and majority of loans are outstanding from financial years 2003-04, 2004-05 and 2005-06. Assessee submitted that these are the loans not received during the year. However, the AO made an addition of Rs.9,76,41,006/- With respect to loan from 44 parties which was received during the financial years 2003-04, 2004-05 and 2005-06 under Section 68 of the Act for the impugned assessment year 2014-15.
5. The ld. CIT (Appeals), on appeal before him held that all these outstanding loans were received in the earlier years except loan of Rs. 6,15,248/- received from PBIL during the year which was accepted by the ld. AO, other loans were shown to have been received prior to 31.03.2006. Therefore, he held that the loans received in earlier years cannot be added in the hands of the assessee under Section 68 of the Act. Therefore, he deleted the addition. Therefore, the ld. AO is in appeal before us.
6. The ld. DR supported the order of the ld. Assessing Officer and submitted that when loan has been received from 44 parties free of interest and assessee has accordingly filed the balance sheets and the bank statements,

but not the confirmation, the Assessing Officer has rightly added the same under Section 68 of the Act.

7. The ld. AR referred page No. 62 of the Paper Book. He referred page Nos. 35 to 37 of the Paper Book wherein the details of the loans are mentioned. He explained that all 44 accounts the assessee has given the complete name, address, Permanent Account Number, the year of receipt of loan and the name of the bank from which the loan is received. He submitted that during the year the assessee has not received any loan. He referred to the provisions of Section 68 of the Act and submitted that even if there is any addition required to be made under Section 68 of the Act, same is required to be made in the year of receipt of loan. He, therefore, submitted that the addition made by the ld. Assessing Officer is incorrect and correctly deleted by the ld. CIT (Appeals).

8. We have carefully considered the rival contentions and perused the orders of the lower authorities. No doubt the assessee has outstanding loan from 44 parties free of interest and assessee has filed the balance sheets and bank statements of those parties, but has not furnished the confirmation. Assessee has submitted a detailed chart placed at Page Nos. 35 to 37 of the Paper Book which gives the names of the lenders, amount of outstanding as on 01st April, 2013, closing balance as on 31st March, 2014, Permanent Account Number of the lender, address, year of receipt of loan and name of the bank. On perusal of the above chart it is found that none of the sum added by the ld. Assessing Officer under Section 68 of the Act is received during the year. All these loans are received in the earlier years. According to Section 68 of the Act any cash credit credited in the books of accounts, on certain conditions can be deemed to be the income of the assessee in the year in which such sum is found credited in the books of accounts of the assessee. Therefore, the ld. CIT (Appeals) has deleted the addition as in this year no sum is found credited in the books of accounts of the assessee. Accordingly we do not find any infirmity in the order of the ld. CIT (Appeals) in deleting the above addition, hence, we confirm the same.

9. Accordingly, the solitary ground of appeal of the ld. Assessing Officer is dismissed.
10. In the result, appeal of the ld. AO is dismissed.

Order pronounced in the open court on : 02/08/2021.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated : 02/08/2021.

MEHTA

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1. Appellant;
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	02.08.2021
Date on which the typed draft is placed before the dictating member	02.08.2021
Date on which the typed draft is placed before the other member	02.08.2021
Date on which the approved draft comes to the Sr. PS/ PS	02.08.2021
Date on which the fair order is placed before the dictating member for pronouncement	02.08.2021
Date on which the fair order comes back to the Sr. PS/ PS	02.08.2021
Date on which the final order is uploaded on the website of ITAT	02.08.2021
date on which the file goes to the Bench Clerk	02.08.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	