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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 325/2024

PR. COMMISSIONER OF INCOME TAX-12,
DELHI

.....Appellant

Through: Mr. Sanjay Kumar and Ms.
Easha, Advocates.

versus

JAGMAG BUILDERS

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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08.07.2024

**CM APPL. 37315/2024 (30 Days Delay) & CM APPL. 37316/2024
(36 Days Delay in Refiling)**

1. Bearing in mind the disclosures made, the delay of 30 days in filing and the delay of 36 days in re-filing the appeal is condoned.
2. The applications shall stand disposed of.

ITA 325/2024

1. This appeal is directed against the order of Income Tax Appellate Tribunal [**'Tribunal'**] dated 25 October 2023 and poses the following questions of law for our consideration:-

“A. Whether on facts and circumstances of the case and in law, Ld. ITAT has erred in sustaining the deletion made by the Ld. CIT(A), in respect of the additions made by the AO in the assessment order under Section 68 of the Act for Rs.2,67,05,957/- and interest thereon of Rs.50,05,512/- and also the Ld. ITAT has erred in deleting the addition of Rs.2,67,05,959/- under Section of the Act on account of unexplained unsecured loans without considering the settled position of law?

B. Whether on facts and circumstances of the case and in law, Ld. ITAT has erred in deleting the addition of Rs.50,05,512/- under Section 37 of the Act on account of disallowance of interest expenses on the unsecured loans?



C. Whether on facts and circumstances of the case and in law, Ld. ITAT has not considered, during the assessment proceedings, the assessee has also failed to furnish any positive evidence in support of sources of the funds of the lender and no explanation was offered in respect of frequent credit entries in the account of lenders, all the lenders were given summons for personal appearance. However, none of the lender appeared for interrogation, could not prove the genuineness of the party and the assessee has failed to prove the identity, creditworthiness and genuineness of the lenders from which unsecured loans were availed and therefore, it was seen that the assessee has taken bogus entries in the guise of unsecured loans?”

2. The issue itself pertains to additions under Sections 68 and 37 of the Income Tax Act, 1961 [‘Act’] which were made by the Assessing Officer [‘AO’] on account of unexplained unsecured loans and disallowance of interest expenses. We note that the Tribunal while affirming the conclusions which were arrived at by Commissioner of Income Tax (Appeals) has observed as follows:-

“6. From the evidences furnished by the assessee before the departmental authorities, it is established that the entire loan, which is subject matter of addition, as unexplained cash credit has been repaid either in the year under consideration or subsequent assessment years. The entire transaction relating to availing of and repayment of loan has been done through banking channel. All details relating to loan availed and repayments made have been furnished before the departmental authorities, the details of which have been produced at pages 24 to 29 of the order of learned First Appellate Authority. It is also a fact on record that assessee has furnished all supporting evidences not only to prove the identity of the lenders but even creditworthiness as well as genuineness of the transaction by furnishing their bank statements, income-tax return copy, confirmations etc. Thus, it is evident, assessee has discharged its onus of proving the identity and creditworthiness of the creditors as well as genuineness of the loan transactions. Therefore, in our considered opinion, learned First Appellate Authority was justified in deleting the addition of Rs.2,67,05,959 made under Section 68 of the Act. Since, the addition made under Section 68 of the Act has been deleted, as a natural corollary, the disallowance of interest paid on such loan also has to be deleted. Accordingly, we do so. Grounds are dismissed.”



3. Bearing in mind the aforesaid, we are of the considered opinion that no substantial question of law arises. The appeal fails and shall stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 8, 2024/vp