

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, “ बी ” चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**DIVISION BENCH, ‘B’, CHANDIGARH**

श्री एन. के. सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य  
**BEFORE SHRI N.K. SAINI, VICE PRESIDENT &**  
**SHRI SANJAY GARG, JUDICIAL MEMBER**

आयकर अपील सं./ITA No. 1344/CHD/2018

निर्धारण वर्ष / Assessment Year : 2013-14

M/s Rohit Kumar Jindal (HUF), Prop M/s R D Steels, Gali No.2, New Bank Colony, Khanna, Distt. Ludhiana	बनाम	The ITO, Ward-3, Khanna
स्थायी लेखा सं./PAN NO: AAOHR3641G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate

राजस्व की ओर से/ Revenue by : Shri Sandeep Dhaiya, CIT

सुनवाई की तारीख/Date of Hearing : 20.01.2020

उद्घोषणा की तारीख/Date of Pronouncement : 06.07.2020

**आदेश/Order**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 28.08.2018 of the Commissioner of Income Tax (Appeals)-2, Ludhiana [hereinafter referred to as ‘CIT (A)’].

2. The assessee in this appeal has taken following grounds of appeal:

1. *That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has erred in confirming the addition amounting to Rs. 2,66,60,000/- made by the AO vide order u/s*

*143(3) dated 22.03.2016 against the income of Rs. 6,25,135/- declared by the appellant in its return of income.*

*2.(a) That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has erred in confirming the addition to the tune of Rs. 1,03,10,000/- on account of the additions in the capital account of the assessee by holding the same as unexplained additions as his finding in Para 7.6.7 of the appellate order.*

*2.(b) That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has erred in upholding the addition made by the AO in respect of capital addition made by the assessee ignoring the fact that the complete sources of addition were duly furnished by the appellant being transfer of funds from M/s Euro Steels.*

*2.(c) That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has factually erred in holding that there were any cash deposits in the bank account of M/s Euro Steels as per his finding in Para 7.6.5 of his order.*

*2.(d) That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has erred in concluding that the assessee was liable to explain the source of deposits in the hands of M/s Euro Steels as per his findings in Para 7.6.5 of his order.*

*3. That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has erred in confirming an addition to the tune of Rs. 1,62,50,000/- on account of alleged unexplained unsecured loans taken by the appellant during the assessment year as per his findings in Para 7.7.9 of the appellate order.*

*4. That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has ignored the documents filed before him, which clearly depicts identity, creditworthiness of the sources of the addition to the capital and addition to unsecured loans and genuineness of the transactions.*

*5. That the Worthy Commissioner of Income Tax (Appeals)-2, Ludhiana has erred in confirming the ad-hoc addition of Rs.*

*1,00,000/- on account of disallowance of expenses for personal use.*

*6. The Appellant craves leave to add or amend the grounds of appeal before the appeal is heard and disposed off.*

3. The brief facts of the case are that the assessee (HUF) is engaged in the business of trading of Iron and Steel under the name and style of its proprietary concern namely M/s R.D. Steel and has filed its return of income for the year under consideration on 26.9.2013 declaring therein an income of Rs. 6,25,135/-. The case was selected for scrutiny assessment u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act'). The Assessing Officer gave various notices to the assessee but on failure of the assessee to appear or file relevant information / explanation, the Assessing Officer proceeded to frame the assessment ex-parte of the assessee u/s 144 of the Act making the following additions:-

- |        |   |                   |
|--------|---|-------------------|
| (i).   | Addition on account of unexplained addition in Capital account of the assessee HUF            | Rs. 1,03,10,000/- |
| (ii).  | Addition on account of unexplained unsecured loans For want of necessary details              | Rs.2,19,71,000/-  |
| (iii). | Addition on account of disallowance of interest amount Debited to the profit and loss account | Rs. 7,24,475/-    |
| (iv).  | Addition on account of unexplained investment in Fixed assets                                 | Rs. 7,58,150/-    |
| (v).   | Addition on account of disallowance of depreciation On newly purchased assets                 | Rs. 1,13,722/-    |

(vi). Addition on account of disallowance out of various Expenses debited to profit & loss account for want Of bills/vouchers	Rs. 1,00,000/-
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4. Being aggrieved by the above order of the Assessing Officer, the assessee preferred appeal before the Ld. CIT(A). The assessee also furnished additional evidences before the CIT(A) and explained reasons for which its representatives could not appear before the Assessing Officer. The Ld. CIT(A) admitted the additional evidences and called for remand report from the Assessing Officer in respect of the various evidences / explanation given by the assessee. After considering the remand report, counter objections of the assessee on the said remand report and also after considering the submissions of the assessee, the Ld. CIT(A) partly allowed the appeal of the assessee. He, however, has confirmed the additions as contested vide above noted grounds of appeal.

5. We have heard the rival contentions of the Ld. Authorized Representatives of both the parties and have gone through the record. Our findings in respect of the matter are as under:

6. **Ground No.1** : Ground No.1 is general in nature. The assessee, in this ground has contested the total addition amounting to Rs. 2,66,60,000/- . However the assessee vide subsequent grounds has contested specifically the each part of the aforesaid total addition .

Hence this ground will be automatically taken care in our adjudication on the subsequent grounds.

7. **Ground No.2** : The assessee vide this ground has contested the addition of Rs. 1,03,10,000/- on account of introduction of the said amount in the capital account of the assessee treating the same as unexplained income of the assessee. The assessee claimed that out of the aforesaid amount, Rs. 90,75,000/- were received by way of transfer through banking channels from M/s Euro Steels. The source of the amount in the hands of Euro Steels was from receipts in the normal course of business via banking channels. The assessee in this respect filed copy of bank statement of M/s Euro Steels, confirmation in this respect from the said entity.

The assessee further claimed that a sum of Rs. 2,60,000/- was transferred via banking channel from personal saving account of Shri Rohit Jindal. It has been further claimed that a sum of Rs. 5 lacs was received by way of transfer from the saving bank account of assessee in which the amount was further received from M/s Euro Steels via banking channels. The assessee in this respect relied upon the saving bank account statement and confirmation from the M/s Euro Steels acknowledging the payment made to the assessee. In respect of the balance payment of Rs. 4,75,000/-, the assessee explained that the same was received through banking channels, however, the assessee

could not identify the source of the receipt. The AO, however, in the remand report has made the following observations in respect of each of the source explained by the assessee.

*“6. Further as directed by the appellate authority, the assessee has been afforded opportunity to furnish the original documents for verification and complete source of credits made in the balance-sheet as on 31.3.2013. In response to this letter, the counsel of the assessee, Shri Jiwan Bansal, CA appeared and filed power of attorney. He was asked to furnish the following documents and produce cash book/ledger for verification:*

- (i) Audited balance-sheet of M/s. Euro Steels as on 31.03.2013*
- (ii) Copy of ITR, computation of M/s. Euro Steels for the AY.2013-14*
- (iii) Copy of account of M/s. R. D. Steels in the books of M/s. Euro Steels duly confirmed.*
- (iv) ITR, computation of Sh. Ramesh Jain for the A. Y. 2013-14*

*The assessee has furnished the following documents:*

- (i) Copy of audited balance-sheet of M/s Euro Steels Mandi Gobindgarh for the year ending 31.03.2013 without partners capital account (schedule 'A').*
- (ii) Copy of account of M/s. R. D. Steels in the books of M/s. Euro Steels, Mandi Gobindgarh for the year ending 31.03.2013.*
- (iii) Copy of death certificate of Sh. Ramesh Jain as copy of ITR is not traceable*

*7. Since the assessee has not furnished the copy of ITR filed by M/s. Euro Steels for the A.Y.2013-14. In order to verify the creditworthiness and genuineness of the unsecured loan given by Sh. Rohit Jain, partner of M/s. Euro Steels, the copy of ITRs for the A.Ys.2012-13 and 2013-14 and audited balance-sheet were called for from the ITO, Ward-1, Patiala where the PAN of the firm was lying. After verification of documents*

*supplied by the assessee and documents called for from ITO, Ward-1, Patiala, the following discrepancies have been noticed:*

*(b) During the year under consideration, the assessee has introduced capital of Rs. 1.031 crores and out of this amount, Rs. 90,75,000/- have been given by the firm M/s. Euro Steels, Mandi Gobindgarh. Further the firm M/s Euro Steels has also given Rs. 57,55,000/- in the shape of unsecured loans. But on perusal of ITR of the firm, it has been noticed that the firm has filed ITR for the A.Y.2013-14 declaring an income of Rs.99,057/- only. Hence the creditworthiness and genuineness of the loans revised from the firm has not been proved.*

*(e) Regarding capital formation of Rs.4,75,000/-, the assessee has simply stated that these amounts have been received through banking channels, but has failed furnish any documentary evidence in this regard.*

*(f) Regarding capital formation of Rs.2,76,000/-, the assessee has stated that these amount have been transferred from the saving bank account of Rohit Kumar Jindal through RTGS, but has failed to furnish any documentary evidence in this regard.*

8. The assessee in his counter objections has objected to the above observations of the AO in the following manner:-

*b. The Ld. AO has alleged that the amount of capital addition of Rs.90,75,000 and loan of Rs.57,55,000/- has been received from M/s Euro Steels, however, M/s Euro Steels has only filed a return of income declaring an income of Rs. 99,057 and thus, the creditworthiness of the said firm and the genuineness of the loans raised has not been proved. With regard to the same, it is submitted that merely because the said firm has declared lower profits does not lead to the conclusion that the creditworthiness and genuineness is not proved. It is also not the case of the department that the said firm has received the funds given to the assessee from unverified sources, instead the sources of the funds are very much genuine and have been received in the regular course of the business of the firm. Moreover, the Ld. AO has accepted the bank statement and the confirmed copy of*

*account enclosed in the paper book and no adverse inference has been drawn by the Ld. AO with regard to the same. Thus, when the source of the funds received by the assessee stand duly explained and documentary evidences to that effect have been submitted then the onus of the assessee stands discharged and no addition can be made in the hands of the assessee. Thus, the explanation with regard to the same may kindly be accepted in the light of the submissions and the documents filed before your goodself.*

- e. In Point e. the Ld. AO contended that the assessee has not furnished any documentary evidence with regard to the capital infusion amounting to Rs.475000, with regard to the same it is submitted that due to time lag in the date of credit of the said amount it is not possible to obtain any further information regarding the said capital addition and thus, it is requested that the submissions already given by the assessee may kindly be considered.*
- f. In Point f. the Ld. AO has alleged that the assessee has not filed any documentary evidence with regard to Rs.260000 transferred from the savings bank account of the karta of the assessee, however, this allegation of the Ld. AO is not at all correct as we have duly filed the copy of the savings bank statement of the Karta of the assessee on Page 32-33 of the paperbook and from a perusal of the same it is clear that the Karta has received the said amount from the banking channels and no adverse remarks against the same has been given by the Ld. AO in the remand proceedings, therefore, the explanation given by the assessee may kindly be considered and the addition with regard to the same may please be deleted.*

9. However, the Ld CIT(A) has given his findings in respect of each of the above additions as under:-

**“7.6.4**        *On careful consideration of the rival contentions, it has been noticed that although the learned AR of the assessee*

*HUF has tried to explain the source of addition to capital account to the extent of Rs.98,35,000/- [Rs.90,75,000/- + Rs.2,60,000/- + Rs.5,00,000/-] from various sources but failed to explain the source of capital addition of Rs.4,75,000/-at all. During the course of appellate proceedings, it has only been submitted that the addition to capital account to the extent of Rs.4,75,000/- has been made through banking channels but no evidence has been enclosed to prove his contentions. So, the addition to the extent of Rs.4,75,000/- made by the Assessing Officer on account of unexplained addition to capital account of the assessee HUF out of total addition of Rs.1,03,10,000/-is, therefore, upheld for failure on the part of the assessee HUF to adduce any documentary evidence in respect of source of addition.*

**7.6.5** *As regards the transfer of funds to the extent of Rs.95,75,000/- [Rs.90,75,000/-directly + Rs.5,00,000/- indirectly] from the bank account of M/s Euro Steels is concerned, it has been noticed that there are numerous deposits in the bank account of M/s Euro Steels during the year under consideration, the sources of which has not been explained and the source of addition to capital account to this extent remained unexplained even during appellate proceedings. The confirmation filed by M/s Euro Steels will have no evidentiary value unless and until the source of cash deposits in the bank account of M/s Euro Steels are explained. The contention of the learned AR of the assessee HUF that the source in the hands of the assessee FUF stand explained and action if any may be taken in the hands of M/s Euro Steels cannot be accepted as the onus cast upon the assessee HUF to explain the source of deposits in the bank account of M/s Euro Steels has not been discharged. As the deposits in the bank account of M/s Euro Steels have not been explained and as the onus lies upon the assessee HUF has not been discharged, the source of capital contribution to the extent of Rs.95,75,000/- [Rs.90,75,000/- directly + Rs.5,00,000/- indirectly] in the books of assessee HUF cannot be treated as explained. So, the addition to the extent of Rs.95,75,000/- made by the Assessing Officer on account of unexplained addition to capital account of the assessee HUF out of total addition of Rs. 1,03,10,000/- is also upheld.*

**7.6.6** *As regards the transfer of funds to the extent of Rs.2,60,000/- from the bank account of Sh. Rohit Jindal U/G Sh. Dev Krishn Gupta is concerned, it has been noticed that there is an transfer of equal amount of Rs.2,60,000/- in the same bank account, the sources of which remained unexplained even during appellate proceedings. As the deposits in the same bank account to the extent of Rs.2,60,000/- have not been explained and as the onus lies upon the assessee HUF has not been discharged, the source of capital contribution to the extent of Rs.2,60,000/- in the books of assessee HUF cannot be treated as explained. So, the addition to the extent of Rs.2,60,000/- made by the Assessing Officer on account of unexplained addition to capital account of the assessee HUF out of total addition of Rs. 1,03,10,000/- is upheld too.*

**7.6.7** *In nutshell, whole of the addition of Rs. 1,03,10,000/- made by the Assessing Officer in this on account of unexplained addition to capital account of the assessee HUF is, therefore, upheld.”*

10. We have considered the rival contentions of the Ld. Representatives of the parties and have also gone through the record. So far as the addition of Rs. 90,75,000/- and further a sum of Rs. 5,00,000/- claimed to have been received from M/s Euro Steels is concerned, the AO in his remand report, as noted above, has rejected the contention of the assessee solely on the ground that as per the ITR return of the said firm, the firm had declared a low income of Rs. 99,057/- only for AY 2013-14. He, on this score alone, observed that the creditworthiness and genuineness of the loan from the said firm had not been proved. However, it is a fact mentioned in the remand report itself that the assessee had furnished before the AO a copy of the

audited balance sheet of M/s Euro Steels. Further, the AO, in order to verify the creditworthiness of M/s Euro Steels and genuineness of the transactions himself called for from the AO of the said concern. The AO after verification of the said documents including audited balance sheet etc. could not find any fault in the same. The AO neither doubted nor called for any further evidence from the assessee to prove the source of deposits in the account of M/s Euro Steels. However, the assessee claimed that the said receipts were in normal course of business of M/s Euro Steels. The assessee furnished all the details before the AO which were required to prove the creditworthiness of M/s Euro Steels and genuineness of the transactions. So far as the creditworthiness of M/s Euro Steels were concerned, the assessee proved that M/s Euro Steels was possessed of sufficient funds to make the impugned advances to the assessee. Even, the AO has not pointed out any defect in the evidence furnished by the assessee in this respect. The only contention of the AO in the remand report is that M/s Euro Steels had shown very low income in the assessment year 2013-14. In our view, that itself is not a ground to reject the creditworthiness of M/s Euro Steels. An assessee, may or may not, earn considerable income during an assessment year but that fact itself is not determinative of the creditworthiness / financial capability of such an assessee. When the assessee and even the AO himself has called for necessary records from his counterpart / AO of the said concern, but could not find any discrepancy or fault in the

same, hence, in our view, the action of the AO in rejecting the creditworthiness of M/s Euro Steels solely on the ground that its income for the year under consideration was low, cannot be held to be justified.

So far as the identity of the creditor was concerned, there was no doubt raised by the AO in this respect. M/s Euro Steels was as separate concern in which the assessee was partner and the same was duly assessed to the income tax. So far as the genuineness of the transactions was concerned, even in that respect no doubt has been raised by the AO. Admittedly, all the amounts by M/s Euro Steels has been transferred to the assessee through banking channels. However, the Id. CIT(A) has rejected the contentions of the assessee and upheld the additions made by the AO citing different reasons saying that the assessee could not prove the source of numerous deposits in the bank accounts of M/s Euro Steels. However, as observed above, the AO in his remand report has not pointed out any doubt about the source of numerous deposits in the bank accounts of M/s Euro Steels. Further, the assessee has been stating that the source of said deposits in the accounts of M/s Euro Steels was out of its business receipts in normal course. In the remand proceedings neither the AO asked the assessee to furnish further evidences in respect of the source of deposit into the accounts of M/s Euro Steels nor the AO himself called the M/s Euro Steels to prove the source of deposits. Moreover, the AO himself called for the necessary details and documents from the concerned AO which

were available in record as per the ITR (Income Tax Return) filed by the M/s Euro Steels and has not rebutted the authenticity of the said documents, hence, in the appellate proceedings, the findings of the CIT(A) upholding the additions made by the AO on this ground cannot be held to be justified.

So far as the additions of amount of Rs. 2,60,000/- is concerned, the assessee has explained that this amount has been transferred from the saving bank account of Shri Rohit Kumar Jindal through RTGS. However, the AO in the remand report has observed that the assessee has failed to furnish the documentary evidence in this regard. In his counter objections, the assessee has contended that the copy of the saving bank statement of Shri Rohit Kumar Jindal was duly filed, copy of which was placed at paper book pages 32 & 33. The Ld. CIT(A), however, in this respect has observed that there was transfer of an equal amount of Rs. 2,60,000/- in the same account, the source of which was not explained. However, the contention of the Ld. counsel in this respect has been that even the source of the deposit in the saving bank account of Shri Rohit Kumar Jindal cannot be doubted as all the transactions carried out in the said account were through banking channels.

As noted above, the AO has not gone through the bank account statement filed by the assessee of Shri Rohit Kumar Jindal. However, the CIT(A) duly noted that the said amount of Rs. 2,60,000/- was

transferred from the personal account of Shri Rohit Kumar Jindal. Since, no queries were raised by the AO in the remand proceedings regarding the source of deposit in the saving bank account of Shri Rohit Kumar Jindal, there was no reason for the assessee to furnish the evidence relating to the source of source without being asked for. The Ld. CIT(A) simply noted that there was a deposit into the said account, therefore, he doubted the genuineness of the transactions, whereas, the claim of the assessee has that all the details whatever were called for, were duly furnished and that the alleged deposits in the individual bank account of Shri Rohit Kumar Jindal were through banking channels. In our view, when the assessee has proved the source of deposit and genuineness of the transactions, therefore, the assessee without being called for to prove the source of source by the AO was not supposed to furnish the further details. No doubt has been raised either by the AO or by the CIT(A) regarding the transaction so far as the receipt of Rs. 2,60,000/- by the assessee from saving account of the individual is concerned.

So far as the addition of Rs. 4,75,000/- was concerned, the assessee admittedly could not prove with reliable evidence the source of the said amount and the creditworthiness of the creditor and genuineness of the transaction.

11. In view of the above discussion, the addition to the extent of Rs 4,75,000/- is upheld whereas, the remaining part of the additions out of the total additions Rs 1,03,10,000/- is ordered to be deleted. This ground of the appeal is accordingly partly allowed.

**12. Ground Nos. 3 & 4 :** The assessee through these grounds of appeal has agitated the addition of Rs. 1,62,50,000/- on account of alleged unexplained unsecured loans. The assessee in this respect explained that the assessee HUF availed many short and long term loans from various banks as well as financial institutions. As the position of the business further declined, the assessee was in dire need of funds, therefore, the brother in law of the Karta of the assessee and other family members of the Karta of the HUF advanced different sums of money to the assessee in order to help it out of the financial crunch. The assessee received a total loan of Rs 2,19,71,000/- from the family members and friends of the Karta of the HUF. The assessee in this respect has given the details of the parties as under:-

- (i). Transferred from M/S Kiran Industries, a proprietary Concern of the mother of the assessee through M/s Dev Krishan Jindal & Sons 'HUF' Rs. 19,95,000/-
- (ii). Transferred from M/s Euro Steels through Mrs. Smriti Jindal W/o Karta of assessee 'HUF' Rs.20,00,000/-
- (iii). Transferred from bank account of Sh. Ramesh Jain Father-in-law of the Karta of assessee 'HUF' transferred from M/s Euro Steels through . Shri Rohit Jain, Karta of assessee HUF Rs.54,31,000/-
- (iv) Transferred from M/s Euro Steels through Mrs.

Superna Jindal, sister of the Karta of assessee HUF	Rs. 26,55,000/-
(v) Transferred from M/s Euro Steels through Sh. Rohit Kumar Jindal, Karta of assessee HUF	Rs. 11,00,000/-
(vi) Through personal saving bank account of Sh. Rohit Kumar Jindal, Karta of assessee HUF	Rs. 2,90,000/-
Total	Rs.2,19,71,000/-

13. The assessee in this respect explained as under:-

“From Dev Krishan Jindal & Sons ('HUF') – Rs. 9,95,000/-

*The said addition of the unsecured loans amounting to Rs. 19,95,000/- was received from Dev Krishan Jindal & Sons ('HUF'). This is evident from the bank statement of Dev Krishan Jindal & Sons (HUF) enclosed in the paper book at page 39-41. From a perusal of the same it is clear that the said amount has actually been received from M/s Kiran Industries which is the proprietorship of Dev Krishan Jindal. The sums received from M/s Kiran Industries has were actually the loan repaid by M/s Kiran Industries to Dev Kumar Jindal. To further substantiate we are enclosing in the paper book, the confirmed copies of account of Dev Krishan Jindal & Sons (HUF) evidencing the transfer of the said amount on Page-36. We are also filing before your goodself the Return of Income in the paper book at page-38 and the confirmed copy of account of Dev Krishan Jindal HUF to further substantiate the genuineness of the transaction.*

• From Smiti Jindal - Rs. 20.00.000/-

*During the year under consideration the assessee HUF received Rs. 20 Lakhs as Unsecured Loan from Mrs. Smiti Jindal. Mrs. Smiti Jindal is wife of the karta of the assessee HUF. The said amount has actually been paid by M/s Euro Steels on the behalf of*

*Smiti Jindal and the same is evident from the collective perusal of the copy of account of Mrs. Smiti Jindal in the books of M/s R.D Steels enclosed in the paperbook at Pages-42 and the copy of the bank statement enclosed at Pages 44-45. It is also for your information that Mrs. Smiti Jindal is the sister of Rohit Jain Partner in M/s Euro Steels. We are also filing before your goodself the Return of Income in the paperbook at pages- 43 and the confirmed copy of account of Smiti Jindal to further substantiate the genuineness of the transaction.*

**• From Ramesh Jain-Rs. 54.31.000/-**

*For the addition amounting to Rs. 54,31,000/-, it is submitted before your goodself that the said amount was lent by Sh. Ramesh Jain who is the Father in Law of the Karta of the assessee HUF. We are enclosing herewith the bank statement of Ramesh Jain for the relevant assessment year which makes it amply clear that not only the sources of the loan are very much verifiable but are from genuine sources. Further, from a perusal of the bank statement of Sh. Ramesh Jain it can be seen that Rs. 34,34,213/- has been brought forward from the earlier years. Further, as evident from the bank statement the lender had availed loan from PNB on 48-49 amounting to Rs.33.60 Lakhs out of which funds has been advanced to assessee. It is also for your information here that the lender had passed away on 24.09.2014 and we are enclosing herewith the death certificate of the lender to evidence the same. Therefore, the unsecured loan received from Ramesh Jain have been made through verifiable and genuine sources and the same should be accepted.*

**• From Rohit Jain - Rs. 85.00.000/-**

*Sh. Rohit Jain is the brother in law of the karta of the assessee HUF. The said amount has been transferred from M/s Euro Steels in which Rohit Jain is partner and the said transfers are through the proper banking*

*channels as being reflected in the bank account of the assessee HUF and M/s Euro Steels respectively. The same is evident from the copy of the bank statement of M/s Euro Steels enclosed in the Paper Book at pages-52-56. We are also filing before your goodself the Return of Income in the paper book at pages-51 and the confirmed copy of account of Sh. Rohit Jain to further substantiate the genuineness of the transaction.*

*Therefore, there cannot be any doubt upon the credit worthiness as well as on the genuineness of the transaction. Hence, the addition made in this respect is not called for and needs to be deleted.*

**• From Superna Jindal - Rs. 26,55,000/-**

*During the year under consideration, the assessee availed unsecured loans amounting to Rs. 26,55,000/- from Mrs. Superna Jindal. Mrs. Superna Jindal is the sister of the karta of the assessee HUF. The said amount has actually been paid by M/s Euro Steels on the behalf of Superna Jindal and the same is evident from the collective perusal of the copy of account of Mrs. Superna Jindal in the books of M/s R.D Steels enclosed in the paperbook at Pages-62 and the copy of the bank statement of M/s Euro Steels enclosed in the Paper Book at Pages 64-66. The said amount has been accumulated by the firm in the regular course of business and the same is evident from the bank statement attached herewith. Further, the copy of Income Tax Return along with the confirmed copy of account is duly attached herewith at Pg 63 of the Paper Book.*

**• From Rohit Kumar Jindal - Rs. 13,90,000/-**

*Regarding the unsecured loan of Rs. 13,90,000/-, it is submitted that the said amount has been lent by Sh. Rohit Kumar Jindal himself i.e., the karta of the HUF. Out of the said amount, Rs. 11,00,000/- has been paid by M/s Euro Steels on the behalf of Rohit Jindal which is evident from the bank statement of M/s Euro*

*Steels attached on Pg 59 of Paper Book. The said amount has been earned in the regular course of business of M/s Euro Steels. Further, the remaining amount of Rs. 2,90,000/- has been lent from the personal savings account of the Karta of the assessee HUF. The said amount of Rs. 2,90,000/- was received by the assessee from his father namely Sh. Dev Krishan Jindal. The same is being duly reflected in the attached bank statements at Pg 60-61 to of the Paper Book. In addition to the above, the Income Tax Return alongwith confirmed copy of account is attached herewith at Pg \_to \_ of Paper Book.*

*5.5 It is for your information here that the transfer of funds made from M/s Euro Steels has been reflected as unsecured loans from Mrs. Superna Jindal and not in its own name due to the fact that the assessee HUF required funds in order to avail additional loans from the bank. In order to submit the documents to the bank, the assessee required funds in its Balance Sheet and that too to increase the current ratio of the assessee. Had the assessee shown the unsecured loan from a single person namely, M/s Euro Steels, then the bank would have suspected the fact that the transfer of funds has been made merely to get some financial assistance from the bank and thus, the bank would not have lent any amount and/or provided any kind of financial assistance. Hence, the assessee had no choice but to resort to classify the money received from M/s Euro Steels under different heads. Your goodself would appreciate the fact that the assessee HUF only classified the funds in the name of family members only and not in the name of any outsiders so that the sources of the funds is not at all doubted upon. Moreover, we have explained the identity & genuineness of the lenders with documentary evidences & also explained the source as well as the source of source of the transactions of unsecured loans received by the appellant & thus even the credit*

*worthiness of the lenders and sources of lenders stands proved.”*

14. The assessee further submitted that since the necessary documents such as copies of the bank accounts, confirmations etc. of the respective parties have been duly furnished, hence, the identity and creditworthiness of the creditors and genuineness of the transactions was duly proved. However, the AO in the remand report has made the following observations in this respect.

*“(a) During the year under consideration, the assessee has raised loans of Rs.85 lacs from Sh. Rohit Jain, who is partner of M/s. Euro Steels. On perusal of capital account of Sh. Rohit Jain, partner, it has been found that the partner's capital as on 01.04.2012 was only Rs.72,11,236/- which was raised in the A.Y.2013-14 at Rs.1,31,08,241/- i.e. as on 31.03.2013. It is pertinent to mention here that during the year, Sh. Rohit Jain, partner has withdrawn only Rs.23,20,000/- from his capital, whereas as per assessee's books of accounts, Rs.85 lacs have been received from Sh. Rohit Jain from his capital account. In view of these facts, the unsecured loans raised from Sh. Rohit Jain, partner of M/s. Euro Steels are not genuine.*

*(c) Further, the assessee has furnished documents with regard to unsecured loans raised of Rs.54,31,000/- from Sh. Ramesh Jain, who has since been expired and copy of ITR has not been supplied. In this regard, it is submitted that Sh. Ramesh Jain having PAN ADVPJ2567M is also assessee of this ward, who has not filed any ITR for the A.Y.2013-14. Hence the person who is not an assessee has given an loan of Rs.54,31,000/- cannot be accepted. Hence the source of giving loan i.e. creditworthiness of Sh. Ramesh Jain has also not been proved by the assessee and deserves to be rejected.*

*(d) Further the assessee has submitted in his written submissions that Sh. Dev Krishan Jindal HUF has given*

*unsecured loans of Rs. 19,95,000/-, which were raised from M/s. Kiran Industries, which is the proprietorship of Sh. Dev Krishan Jindal. But on checking the PAN of M/s. Kiran Industries (AAQPR1921D), it has been found that the proprietor of the concern is Smt. Santosh Rani. But the assessee has not produced the documentary evidence with regard to the source of the concern M/s Kiran Industries, who has given such loans of Rs.19,95,000/-. Hence the creditworthiness has not been proved by the' assessee.*

*8. In view the above facts, it is clear that the assessee has knitted a concocted story to justify the capital formation and unsecured loans raised by him from M/s. Euro Steels, Sh. Rohit Jain, partner of M/s. Euro Steels, Sh. Ramesh Jain (PAN:ADVPJ2567M). However, documents supplied by the assessee and the documents called for from ITO, Ward-1, Patiala are submitted herewith for verification. Hence the additional evidence produced by the assessee at time of appellate proceedings deserves to be rejected.”*

15. Against the said remand report, the assessee filed following counters objections:-

*a. The Ld. AO in Point a. has alleged that the capital withdrawal made by the Rohit Jain (Partner of Euro Steels) from Euro Steels is not enough to justify the unsecured loans recorded by the assessee at Rs.85 Lakhs in the name of Rohit Jain in his personal capacity. With regard to the same, it is submitted that the AO has not appreciated the submissions and documentary evidences filed in the correct perspective. The clear fact that emerges from the evidences in the form of bank statement of M/s Euro Steels is that the total amount of Rs.85 Lacs has been debited from the said firm's bank accounts and received by the assessee. The AO has already called for the ITR and Balance Sheet of the said firm from the Assessing Officer of M/s Euro Steel. The reason as to why the said amount has been recorded in the name of Rohit Jain is because he was the concerned person who arranged the said loan for the Assessee and he has duly confirmed the same by way of his confirmation. Accordingly, once the source of*

*funds and the identity is clear, the onus of the appellant is discharged and how the entries are treated/reflected in the books of the lender is not under the control of the Assessee and the same cannot be a ground for making addition in the hands of the Assessee.*

- c. *In Point c the Ld. AO has alleged that Ramesh jain who is also one of the unsecured loan creditor has not filed the return of income for the relevant assessment year, with regard to the same at the outset it is submitted that Ramesh Jain had passed away on 24.09.2014 and it is also for your information that till the date of the lender's death there was still time left to file the belated return and due to the unfortunate death of the lender the same could not have been filed. Thus, the same cannot be any way said to be assessee's fault. Moreover, from a perusal of the bank statement of Sh. Ramesh Jain it can be seen that Rs. 34,34,213/- has been brought forward from the earlier years. Further, as evident from the bank statement the lender had availed loan from PNB on 48-49 amounting to Rs.33.60 Lakhs out of which funds has been advanced to assessee. The Ld. AO in her remand proceedings have not given any adverse remarks against the same and therefore, merely because the return of income has not been filed of a dead person, it cannot be held that the creditworthiness of the said lender cannot be proved when the sources of the loan are genuine and bona fide.*
- d. *In Point d the Ld. AO with regard to the loan received from Dev Krishan Jindal has alleged that the source of the source of the said loan, which was from M/s Kiran Industries is not the Proprietorship concern of Dev Krishan Jindal, (as stated by the assessee in the detailed submissions) but of Santosh Rani (Wife of Dev Krishan Jindal). In this regard, it is stated that although due to some miscommunication it has been inadvertently written as prop concern of Dev Krishan Jindal while it is correct that it is a prop concern of Santosh Rani, but it is also a fact here that it does not make much of a difference because the sources of the funds have never been disputed and no adverse remarks against the same has even been provided by the Ld. AO in the remand report. Moreover,*

*it is also for information here that the income as declared by Santosh Rani is also sufficient enough to justify her creditworthiness. Thus, the contention raised by the Ld. AO that the creditworthiness of Krian Industries is not proved, is frivolous and wrong and the explanation given by the assessee deserves to be accepted.*

*Therefore, on the basis of the above explanation, in view of the fact that no adverse remarks has actually been made by the Ld. AO in the remand report with regard to the documentary evidences filed by the assessee in the Paperbook and considering the remand report by the Ld. AO it is clear that the sources frvm which the advances/capital contribution have been made have not been disputed, therefore, it is humbly requested before your goodself that addition made by the Ld. AO may please be deleted and oblige.”*

16. The Ld. CIT(A) after considering the rival submissions has given the following findings in relation to the issue of unsecured loans: -

*“7.7.5 On careful consideration of the rival contentions, it has been noticed that although the learned AR of the assessee HUF has tried to explain the source of unsecured loans from various sources as mentioned above, but I do not find any force in his contentions in respect of majority of the unsecured loans, the source of which is either M/s Euro Steels or M/s Kiran Industries. As regards the transfer of funds to the extent of Rs. 1,42,55,000/- indirectly from the bank account of M/s Euro Steels is concerned, it has been noticed that there are numerous deposits in the bank account of M/s Euro Steels during the year, under consideration, the sources of which could not be explained and remained unexplained even during appellate proceedings. The confirmations filed by M/s Euro Steels of family members or relatives of the Karta of assessee HUF will have no evidentiary value unless and until the sources of various deposits in the bank account of M/s Euro Steels are explained. The contention of the learned AR of the assessee HUF that the source in the hands of*

*the assessee HUF stand explained and action if any may be taken in the hands of M/s Euro Steels cannot be accepted as the onus cast upon the assessee HUF to explain the source of deposits in the bank account of M/s Euro Steels has not been discharged. As the deposits in the bank account of M/s Euro Steels have not been explained and as the onus lies upon the assessee HUF has not been discharged, the source of unsecured loans in the name of different family members and relatives to the extent of Rs. 1,42,55,000/- in the books of assessee HUF cannot be treated as explained. So, the addition to the extent of Rs. 1,42,55,000/- made by the Assessing Officer on account of unexplained unsecured loans out of total addition of Rs.2,19,71,000/- is, therefore, upheld.*

*7.7.6 As regards the transfer of funds to the extent of Rs.2,90,000/- from the bank account of Sh. Rohit Kumar Jindal, Karta of assessee HUF, is concerned, it has been noticed that the amount has been transferred from receipts on account of EPF transfer. It means, the source of Rs.2,90,000/- taken by way of unsecured loan to the extent of Rs.2,90,000/- (out of total loan amount of Rs. 13,90,000/-) from Sh. Rohit Kumar Jindal is fully explained. As the unsecured loan to the extent of Rs.2,90,000/- (out of total loan amount of Rs. 13,90,000/-) is fully explained, the addition to the extent of Rs.2,90,000/- made by the Assessing Officer on account of unexplained unsecured loan from Sh. Rohit Jindal cannot be said to be justified. So, the addition to the extent of Rs.2,90,000/- (out of total loan amount of Rs. 13,90,000/-) made by the Assessing Officer on account of unexplained unsecured loan out of total addition of Rs.2,19,71,000/- is, therefore, directed to be deleted.*

*7.7.7 As regards the unsecured loan of Rs.54,31,000/- from Sh. Ramesh Jain is concerned, it has been noticed that the amount has been transferred from opening balance lying in the same bank account as well as from the amount of loan raised by Sh. Ramesh Jain. It means, the source of Rs.54,31,000/- raised by way of unsecured loan of Rs.54,31,000/- from Sh. Ramesh Jain is also fully explained. As the unsecured loan to the extent of Rs.54,31,000/- from Sh. Ramesh Jain is also fully explained, the addition to the extent of Rs.54,31,000/- made by the Assessing*

*Officer in this case on account of unexplained unsecured loan from Sh. Ramesh Jain cannot be said to be justified. So, the addition to the extent of Rs.54,31,000/- made by the Assessing Officer in this case on account of unexplained unsecured loan out of total addition of Rs.2,19,71,000/- is, therefore, also directed to be deleted.*

*7.7.8 As regards the unsecured loan to the extent of Rs. 19,95,000/- from M/s Dev Krishan Jindal & Sons (HUF) is concerned, it has been noticed that there are transfers entries of equal amount of Rs. 19,95,000/- in the same bank account, the sources of which are transfers from the bank account of M/s Kiran Industries, a proprietary concern of the mother of the Karta of the assessee HUF. As the sources of deposits in the bank account of M/s Kiran Industries remained unexplained even during appellate proceedings, it cannot be said that the assessee HUF has discharged its onus to explain the source of unsecured loan from M/s Dev Krishan Jindal & Sons (HUF). As the deposits in the bank account of M/s Krishna Industries from where the funds have been transferred to the bank account of M/s Dev Krishan Jindal & Sons (HUF) have remained unexplained even during appellate proceedings and as the onus lies upon the assessee HUF has not been discharged, the source of unsecured loan to the extent of Rs. 19,95,000/- from M/s Dev Krishan Jindal & Sons (HUF) cannot be treated from explained sources. So, the addition to the extent of Rs. 19,95,000/- made by the Assessing Officer in this case on account of unexplained unsecured loan from M/s Dev Krishan Jindal & Sons out of total addition of Rs.2,19,71,000/- is also upheld. It has also been noticed that the amount shown in the balance sheet of M/s Euro Steels in the name of M/s R.D. Steels, a proprietary concern of the assessee HUF, is only at Rs. 1,18,63,037/-. Apart from this an amount of Rs.5,00,000/- has been shown as recoverable from Sh. Rohit Kumar Jindal (HUF) but no amount has been shown as recoverable from any other person of the assessee HUF group. This also gives indication that the amount received by the assessee HUF from M/s Euro Steels is unexplained as the source of receipts in the bank account of this concern remained unexplained even during appellate proceedings.*

*7.7.9 In nutshell, the addition of Rs. 1,62,50,000/- [Rs. 1,42,55,000/- + Rs. 19,95,000/-] made by the Assessing Officer on account of unexplained unsecured loans out of total addition of Rs.2,19,70,000/- is upheld whereas the balance addition of Rs.57,21,000/-[Rs.2,90,000/- + Rs.54,31,000/-] out of total addition of Rs.2,19,70,000/- is deleted. The assessee HUF will thus get a relief of Rs.57,21,000/- out of total addition of Rs.2,19,70,000/- made by the Assessing Officer on account of unexplained unsecured loans.”*

17. We have heard the rival contentions on this issue and have also gone through the record. So far as the observation of the AO on the remand report that Shri Rohit Jain, Partner had withdrawn only Rs. 23,20,000/- from his capital account, whereas, as per assessee's books of accounts, Rs 85 lacs has been received from Shri Rohit Jain from his capital account is concerned, the same has been duly explained by the assessee that the amount in fact was transferred from the account of M/s Euro Steels. The AO had already called for ITR and balance sheet of the said firm and duly verified the said transaction. The Ld CIT(A) has not doubted genuineness of the above transaction. The only reason for which the Ld CIT(A) upheld the addition made by the AO was that the assessee has not proved the source of numerous deposits into the bank account of M/s Euro Steels. We have already discussed about this observation made by the CIT(A) while adjudicating the earlier ground No. 2 relating to the amount received by the assessee from M/s Euro Steels. It is to be observed here that unsecured loan to the extent of RS.

1,42,55,000/- i.e. Rs. 20,00,000/- through Sm.t Smriti Jindal, Rs. 85,00,000/- through Shri Rohit Jain (as discussed above), Rs. 26,55,000/- through Smt. Superna Jindal, Rs. 11,00,000/- through Shri Rohit Jindal has been claimed to have been received from M/s Euro Steels. The Ld AO and the Ld CIT(A) have rejected the above transactions on the basis of identical reason, as discussed above. However, in view of our observations made above regarding the issue of creditworthiness of M/s Euro Steels, the addition made by the lower authorities in respect of the loans from the above stated parties amounting to Rs. 1,42,55,000/- is ordered to be deleted. The transaction relating to the remaining amount of Rs. 2,90,000/- from Shri Rohit Kumar Jindal stands accepted by the CIT(A).

So far as the unsecured loan raised of Rs 54,31,000/- from Shri Ramesh Jain is concerned, the Ld CIT(A) has already deleted the addition in this respect. Since the parties are not in appeal in respect of the above transaction, hence, no adjudication is required in this respect.

So far as the unsecured loans received from Shri Dev Krishan Jindal (HUF) of Rs. 19,95,000/- is concerned, the AO in his remand report has observed that the said amount was received by the said concern from M/s Kiran Industries and that the assessee had failed to prove the source of the said concern M/s Kiran Industries. However, the assessee in his counter objections has submitted that the said M/s Kiran

Industries was the proprietorship concern of Smt. Santosh Rani and that even the income declared by Smt. Santosh Rani was sufficient enough to justify her creditworthiness. The Ld CIT(A) in this respect has observed that there were some transfer entries of equal amount of Rs 19,95,000/- in the bank account of M/s Kiran Industries.

That since the source of deposit in the bank account of M/s Kiran Industries remained unexplained, he, therefore, held that the genuineness of the transaction is not proved. However, in our view, the fact that there was sufficient income declared by Smt. Santosh Rani to prove her creditworthiness of the amount advanced to M/s Dev Krishan Jindal & Sons HUF, is enough evidence so far as the onus on the assessee to prove the creditworthiness of the creditor is concerned. The assessee, in fact, has proved the source of source. The observation of the CIT(A) that there were other entries of the equal amount in the bank account of M/s Kiran Industries, in our view, is not relevant so far as the genuineness of the transaction and creditworthiness of the creditor in respect of the funds received by the assessee is concerned.

In view of the above discussion made, these grounds are allowed in favour of the assessee.

18. **Ground No. 5:** This ground is not pressed by the Ld counsel for the assessee, hence, the same is dismissed as 'not pressed'.

19. **Ground No. 6** : This ground is general in nature and does not require any specific adjudication.

In the result, the appeal of the assessee stands partly allowed.

Order could not be pronounced earlier due to non-functioning of the Bench on account of curfew / lockdown in the wake of Covid-19 Pandemic.

Order pronounced on 06.07.2020.

Sd/-  
(एन. के. सैनी / N.K. SAINI)  
उपाध्यक्ष /Vice President  
Dated : 06.07. 2020  
“आर.के.”

Sd/-  
(संजय गर्ग / SANJAY GARG)  
न्यायिकसदस्य/ Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar

