

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "ए" "चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A', CHANDIGARH**

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

**आयकर अपीलसं./ITA Nos. 931 & 932/CHD/2014
निर्धारणवर्ष / Assessment Years : 2009-10 & 2010-11**

Shri Anil Verma, H No. 1383, Sector 33-C, Chandigarh	Vs. बनाम	The DCIT, Central Circle-II, Chandigarh
स्थायीलेखासं./PAN NO: ABGPV 4017P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

**आयकर अपीलसं./ITA Nos. 924 to 926/CHD/2014
निर्धारणवर्ष / Assessment Years : 2009-10, 2010-11 & 2011-12**

Shri Akshay Verma, H No. 1383, Sector 33-C, Chandigarh	Vs. बनाम	The DCIT, Central Circle-II, Chandigarh
स्थायीलेखासं./PAN NO: ACGPV 2609E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

**आयकर अपीलसं./ITA Nos. 937 to 939/CHD/2014
निर्धारणवर्ष / Assessment Years : 2009-10, 2010-11 & 2011-12**

Shri Rani Verma, H No. 1383, Sector 33-C, Chandigarh	Vs. बनाम	The DCIT, Central Circle-II, Chandigarh
स्थायीलेखासं./PAN NO: AAIPV6878M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारितिकीओरसे/Assessee by : Sh. Sudhir Sehgal, Advocate
राजस्वकीओरसे/ Revenue by : Dr. Ashish Gupta, CIT DR

सुनवाईकीतारीख/Date of Hearing : 13.05.2019
उद्घोषणाकीतारीख/Date of Pronouncement : 10.07.2019

आदेश/Order

Per Sanjay Garg, Judicial Member:

These bunch of appeals arise from the common order dated 28.8.2014 of Ld. Commissioner of Income Tax (Central), Gurgaon [hereinafter referred to as 'CIT(A)'] for different assessment years passed separately in cases of each of the assessee before us.

2. The common issue involved in all the appeals is relating to the validity of the addition made by the Assessing Officer and further confirmed by the CIT(A) u/s 2(22)(e) of the Income Tax Act, 1961 (in short 'the Act') treating the amount received by the individual assesseees from the company namely 'M/s VTC Transport Pvt. Ltd. (in short 'VTC Limited') as deemed dividend.

3. Briefly stated, the facts of the case are that the appellant-assesseees are substantial shareholders in VTC Limited. A search and seizure operation was conducted on 30.6.2010 in the VTC group of cases. The assesseees / appellants named above were also covered in the search action. Pursuant to the search action, the assesseees were called upon to file the returns of income for preceding six assessment years relevant to the previous year in which search was conducted. Accordingly, the assessment u/s 153 A of the Act was made by the Assessing Officer for

assessment years 2005-06 to 2010-11. During the assessment proceedings, the Assessing Officer observed that the assesseees / appellants had taken hefty loans and advances from M/s VTC Transport Pvt. Ltd. That the assesseees had substantial shareholding in 'VTC Limited'. He further observed that the said company VTC Limited had huge accumulated profits in the form of reserves and surpluses. When called upon to explain as to why the aforesaid loans and advances be not treated as deemed dividend in the hands of the respective assessee u/s 2(22)(e) of the Income Tax Act, 1961, the assesseees explained that the company VTC Limited had hired their land and premises, for its business activity. The company apart from paying the annual rent as per the rent deed had also agreed to make interest free security deposits of Rs. 5 crores to be paid from 1.4.2004 to 31.3.2007, which was further revised to Rs. 10 cores after 31.3.2007. It was also agreed that the interest free deposits would be made over a period of time according to the availability of funds with the company, hence, it was not that Rs. 5 cores would be given immediately. That no specific period had been clarified in the agreement with regard to the deposits to be given by the company to the land owners. Since the sufficient funds were not available with the company, the full security deposits could not be given by the company to the co-owners / assesseees. However, the amount of security deposits did not ever increase the amount stipulated / agreed as per the lease agreement. It was also pleaded that even the individual

assesseees had shown the rental income received from the company in their returns of income which was duly accepted by the Assessing Officer, hence, the terms of the lease agreement could not be disputed at this stage by the Assessing Officer. However, the Assessing Officer did not agree with the above contentions of the assesseees and treated the aforesaid alleged security deposits as loan and advances made by the company to the assesseees out of its reserves and surpluses and made the addition of the same into the income of the assesseees as deemed dividend u/s 2(22)(e) of the Act.

4. The Ld. CIT(A) also did not accept the contention of the assesseees regarding the amount received as security deposits in respect of land leased out to the company. He, however, agreed with the alternative contention of the assesseees that the total addition be restricted to the total accumulated profits of that relevant year or the amount advanced, whichever is lower, after netting of the amount already added as deemed dividend in the immediately preceding assessment year. The Ld. CIT(A) subject to the above restriction confirmed the action of the Assessing Officer in treating the amounts received by the assesseees during different assessment years from VTC Limited as deemed dividend u/s 2(22)(e) of the Act.

5. Being aggrieved by the above additions made by the CIT(A), the assessee preferred appeals for different assessment years before this Tribunal. The additions relating to the assessment year 2005-06 to 2008-09 stood deleted by a separate common order of this Tribunal dated 28.11.2016 passed in ITA Nos. 927 to 930/Chd/2014 and others on the legal ground that no incriminating material was found during the search action and that the original assessments already stood completed on the date of search, by following the decision of the co-ordinate Bench of the Tribunal in the case of 'M/s Mala Builders Pvt. Ltd vs ACIT ' in ITA Nos. 433 to 437/Chd/2014 & Others.

6. Now, the captioned appeals are relating to remaining assessment years 2009-10 to 2011-12, challenging the aforesaid confirmation of additions on merits.

7. We have heard the rival contentions and have also gone through the material available on record. The Ld. Counsel for the assessee has reiterated the submissions as were made before the lower authorities and further submitted that the lower authorities have wrongly treated the amount of security deposits received by the assessee as deemed dividend in the hands of the assessee. He has further submitted that the assessee is co-owner of 11 acres of land, situated near Railway Station, Chandigarh which has worth value of about Rs. 100 cores. That

'VTC Limited' is engaged in hiring of trucks for transportation, handling and consignment agents, and has been carrying its business activity from the aforesaid land / premises in question which has been used for parking of trucks and cranes, warehousing of iron and steel material of company's clients and that the business has been carried out by the company from its premises for a long time. That as per the lease agreement executed on 1.4.2004 and further notarized with the Notary Public on 7.4.2004, the company had agreed to pay the annual rent of Rs. 12 lacs for initial period of 3 years i.e. 1.4.2004 to 31.3.2007 and it was further agreed that the lease rent would be enhanced with the mutual consent of both the parties from time to time. That as per the clause 3 of the said agreement, it was agreed that the company would make a total interest free security deposits of Rs. 5 crores which would be deposited over a period of time according to the availability of the funds and that on an increase of rent after 1.4.2007, the security deposit of Rs. 10 crores would be made by the company over the period of time.

8. The Ld. Counsel for the assesseees has further contended that the assesseees have declared from time to time the rental income received from the company in their returns of income and due taxes paid there upon which has been duly accepted by the Assessing Officer. The Ld. Counsel has further submitted that the authenticity of the lease agreement cannot be doubted as it was duly notarized. He, in this

respect has also placed on file a copy of the Certificate issued by the concerned 'Notary' Shri Prem Krishan Dass, wherein, he has confirmed that the lease agreement in question was notarized by him vide his register entry S.No.673 dated 7.4.2004. The Ld. Counsel for the assesseees, therefore, has submitted that the amounts received by the assesseees during different assessment years were not loan and advances, rather, the same were out of the business transactions of the assesseees with the company. That accepting of the interest free security deposits is a common practice in case of leasing / hiring of land premises. The Ld. Counsel in this respect has also relied upon the CBDT Circular No. 19 of 2017 dated 12.6.2017, wherein, the CBDT has observed that the trade advances which are in the nature of commercial transactions would not fall within the ambit of the word 'advance' in section 2(22)(e) of the Act. It has been directed in the said circular that appeals may not be filed on this ground by officers of the Department and those are already filed in Courts / Tribunals, may be withdrawn / not pressed. Apart from that, the Ld. Counsel in this respect has relied upon the following decisions:-

1. *Mukundray K Shah vs CIT 277 ITR 128 CAL-HC*
2. *CIT vs Ambassador Travels(P) Ltd. 318 ITR 376 DEL-HC*
3. *CIT vs Raj Kumar 318 ITR 462 DEL-HC*
4. *CIT vs Parle Plastics Ltd 332 ITR 63 HC of Bombay at Goa*
5. *DCIT vs Lakra Brothers 106 TTJ 250 CHD-ITAT*

6. *Shital Kumar Vij vs ACIT ITA No. 405/Chd/2009, ITAT Amritsar Bench, Amritsar.*
7. *DCIT vs Chariot International (P) Ltd 29 ITR (Trib) 36 Bang-ITAT*
8. *CIT vs Francis Wacziarg 353 ITR 187 DELHI-High Court*
9. *CIT vs Madurai Chettiyar Karthikeyan 223 Taxman 350 MAD-High Court*
10. *Bagmane Constructions (P) Ltd vs CIT 277 CTR 338 KAR-High Court*
11. *Jinendra Kumar Jain vs ACIT ITA No. 4126/DEL/2014 DELHI-TRIB*
12. *Ashwani Kapoor vs ITO ITA No. 808/DEL/2013 DEL-TRIB*
13. *CIT vs Atul Engineering Udyog 125 DTR 219 ALL-HC*

9. The Ld. DR, on the other hand, has submitted that the alleged lease agreement seems to be an afterthought device of the assessee. That the said lease agreement was not found during the search action either at the premises of the assessee or at the premises of the 'VTC Limited'. The distribution even of the alleged security deposits was not in accordance with the shareholdings of the assessee in the land in question. That even there was no entry in the Balance Sheet of the 'VTC Limited' regarding the alleged security deposits payable to assessee. That the alleged lease deed seemed to be bogus because the Stamp Paper upon which the alleged lease deed has been executed is

seemed to have been purchased from somewhere in Himachal Pradesh, whereas, there was no connection of the company in the Himachal Pradesh. That the identity of the stamp vendor was not verifiable. That even the alleged lease deed being of a period of 10 years with payment of yearly rent was required to be registered as per the provisions of section 17 (1)(d) of the Indian Registration Act, 1908. He, therefore, has contended that the Assessing Officer has rightly made the impugned additions into the income of the assesseees as deemed dividend u/s 2(22)(e) of the Income Tax Act, 1961.

10. In rebuttal, the Ld. Counsel for the assesseees has submitted that merely because the amount payable as security deposit was not shown in the balance sheet of the company that itself is not decisive or conclusive of the fact that there was no commercial transaction. That as per the settled law, it is the real income which is required to be taxed. That the entries in the balance sheet may not be decisive or conclusive in this respect. That it is open to the Income Tax officer as well as to the assesseees to point out true and proper income while submitting the return of income. The Ld. Counsel for the assesseees in this respect has relied upon the decision of the Hon'ble Supreme Court in the case of **“United Commercial Bank vs CIT”** [1999] 240 ITR 0355 and of the ITAT Delhi Bench of the Tribunal in the **‘Minda Corporation Ltd vs DCIT’** 42 ITR (Delhi-Trib) 615. He has further submitted that the trucks

of the assesseees go on a regular basis to Himachal Pradesh and that stamp papers in question was purchased from Himachal Pradesh for some other purpose. Since the validity of the said stamp paper had not expired, hence, the same was used for execution of the lease deed in question. That said agreement in question has been duly notarized and the same has been acted upon by the parties. The rent paid by the company as per agreement has been reflected in the returns of income of the assesseees and assessed as such by the Department. That on the basis of the same agreement, the Department has accepted the rental income and there was no question to doubt the receipt of the security deposits. He, therefore, has submitted that the payment to the assesseees by the companies was purely a business transaction and cannot be assessed as deemed dividend income in the hands of the assesseees.

11. We have considered the rival submissions have also gone through the record. Admittedly, the assesseees before us are the co-owners in the land / premises which has been used by the company 'VTC Limited' Ltd for its business of transportation and allied business. The assesseees have substantial interest in the company. The Company 'VTC Limited' has sufficient reserves and surpluses during the assessment year under consideration. The assesseees have received considerable amount from the said company. As per the Income tax Authorities, the amount received by the assesseees was in the shape of loans and advances, hence,

would fall within the definition of deemed dividend as per the provisions of section 2(22)(e) of the Act, whereas, the plea of the assessee is that the amount received was in lieu of the security deposits to be maintained by the lessees with the lessors as per the lease agreement dated 1.4.2004. The contention of the Debarment is that the alleged lease agreement is a colourful device which has been prepared as an afterthought to escape the rigour of the deeming provisions of section 2(22)(e) of the Income Tax Act.

On the other hand, the contention of the Ld. Counsel for the assessee is that not only the security deposits, the assessee has also received lease amount (rent) from the company which has been duly shown in their returns of income and has been accepted by the Department. Under the circumstances, having admitted the rental income, the Department is not supposed to doubt the receipt of security deposits as per the terms and conditions of the agreement in question.

12. We have gone through the lease agreement in question. As per the lease agreement executed between the assessee and 'VTC Limited, about 88 kanals land co-owned by the assessee has been given on lease to 'VTC Limited'. Though, assessee are the major shareholders in the said company, however, as per the provisions of Income Tax Act, the said company is a separate taxable entity. Admittedly, the land in question has been used by the 'VTC Limited' for its transportation and

allied business. The rent as per the terms of the agreement has been duly paid by 'VTC Limited' to the assesseees which has been shown in their returns of income and due taxes paid there upon. As per clause 3 of the agreement, the company is also supposed to maintain the Security Deposits with the assesseees as stipulated therein, however, the clause relating to the security deposit is a little bit liberal as no date and time has not been mentioned strictly for making the agreed security deposits by the company with the assesseees, rather, the same are to be made over a period of time subject to availability of funds with the company. The Ld. Counsel has explained in this respect that since the assesseees otherwise are major shareholders in the company and, hence, they are also interested in the growth of the company, hence, the clause relating to the security deposits from the company was not strictly implemented so as to make available the appropriate funds to the company for its business purposes. However, that does not mean that the assesseees would not be entitled to take any security deposits from the company. The land used by the company is a commercial high value land, hence, as per the normal business practice, the lessors can press upon the lessee to make appropriate security deposits. That this was not unusual in the case of assesseees also. There is no rebuttal to the argument of the counsel for the assesseees that the security deposits in question never crossed the amount payable as security deposits as per the terms of the lease agreement. So far as the contention of the Ld. DR that the Stamp

paper upon which the lease agreement was executed was purchased from Himachal Pradesh, whereas, the assesseees do not have any business office in Himachal Pradesh is concerned, the counsel for the assesseees has explained that it was the old stamp paper used which was lying with the company, the validity of which on the date of execution had not expired. The Ld. Counsel in this respect has relied upon the decision of the Hon'ble Supreme Court in the case of **'Thiruvengada Pillai vs Navaneethammal & Anr'** order dated 19.2.2008 in writ Petition (Civil) 290 of 2001, wherein, in para 11 of the judgement, the Hon'ble Supreme Court has observed that the Indian Stamp Act 1899 nowhere prescribes any expiry date for use of the stamp paper. However, section 54 of the said Act provides that a person can seek refund of the value of the unused stamp paper by surrendering the same to the Collector provided it is purchased within the period of six months. The Hon'ble Supreme Court, therefore, has held that section 54 of the Indian Stamp Act does not require any person to use it within six months and that there is no impediment for a stamp paper purchased more than six months prior being used for execution of a document / deed. The Hon'ble Supreme Court further in para 13 of the said judgment has noticed that in the said case the agreement was dated 5.1.1980 and the stamp papers used were purchased in the year 1973 and 1978. Under the circumstances, the Hon'ble Supreme Court observed that though one of the possible inferences was that the plaintiff

not being able to secure an anti-dated stamp paper for creating the agreement, made use of some old stamp papers that were available with him to fabricate the document. This may certainly be a circumstance that can be used as a piece of evidence to cast doubt on the authenticity of the agreement, but, that cannot be a clinching evidence. The Hon'ble Supreme Court further observed that there is also a possibility that a lay man unfamiliar with legal provisions relating to stamps, may bonafidly think that he can use the old unused stamp paper lying with him for preparation of the document and accordingly uses the old stamp papers.

In the light of the above observation of the Hon'ble Supreme Court, when we examine the lease agreement in question, we find that stamp papers used for the alleged lease agreement were purchased on 15.10.2003 and the agreement was executed thereupon on 1.4.2004. That shows that the stamp paper in question was used within a period of six months from the date of its purchase. Though, the Hon'ble Supreme Court has categorically held that there was no bar u/s 54 of The Indian Stamp Act, 1899 to use an old stamp paper may be purchased beyond the period of six months, however, even otherwise also, if as per section 54 of The Indian Stamp Act, the period of six months for return of the stamp papers is taken as a period of validity of stamp paper, the assesseees under bonafide belief and usual practice have used the stamp papers within the period of six months thinking it to be a

valid for execution of the lease agreement in question. The purpose of execution of an agreement on stamp paper is to pay the stamp duty to the Government. The assesseees were having a stamp paper in their possession which was not a very old stamp paper and used within the period of six months from the date of its purchase under normal circumstances. In view of this, though, the use of old stamp paper may cast some doubt about the authenticity of the agreement, however, the same is not determinative or conclusive to hold that agreement in question was not authentic. As discussed above, since the stamp paper in question has been used within six months from the date of its purchase, hence, the bonfide of the assesseees to use the said stamp paper being a valid one, could not be rebutted by the Revenue. Even the agreement in question has been duly notarized with stamp and seal of the Notary. The assesseees have also produced on file a certificate from the Notary certifying that the said agreement was duly notarized by him and an entry to this effect has also been made in his register.

14. The next contention of the Ld. DR that the lease agreement in question is not registered, whereas, the same is required to be registered as per the provisions of Indian Registration Act. The validity of the non-registered lease deed of more than one year or stipulating yearly rental has been considered by the Hon'ble Supreme Court in case of '**Anthony v KC Ittoop and Sons and Others**' (2000) 6 (SC) 394; AIR

2000 SC 3523, wherein, the Hon'ble Supreme Court has considered whether an unregistered lease deed can create a lease. The Court held that an unregistered instrument cannot create a contractual lease due to the statutory restrictions put under sections 17 and 49 of the Registration Act and section 107 of the Transfer of Property Act (TOPA) but that the existence of a lease can be presumed from the conduct of the parties. The Supreme Court held: “*A transfer of right in the building for enjoyment, of which the consideration of payment of monthly rent has been fixed, can reasonably be presumed.*” Further, in the case of ‘**Burmah Shell Oil Distributing now known as Bharat Petroleum Corporation Ltd. v. Khaja Midhat Noor & Ors**’ (AIR 1988 SC 1470), the Hon'ble Supreme Court held that a lease for a period exceeding one year can only be created by a registered instrument. In the absence of a registered instrument, the lease shall be a month to month lease.

Similarly, in the case of ‘**Park Street Properties (Pvt.) Ltd. v. Dipak Kumar Singh and Ors.**’ (AIR 2016 SC 4038) the Hon'ble Supreme Court has held that in the absence of registration, a month-to-month lease is created which is governed by section 106 of TOPA.

15. From the above decisions of the Hon'ble Supreme Court, it can be gathered that though a lease deed of year to year for more than one year is required to be registered and in the absence of registration of such

deed, the terms and conditions of the lease deed cannot be enforced, however, at the same time, from the act and conduct of the parties it can be presumed as a lease on month to month basis and will be governed by the statutory provisions of the Transfer of Property Act. It can be gathered otherwise from the act and conduct of the parties whether that there was a relationship of lessor or lessee or not.

In the case in hand, neither the 'VTC Limited' nor the assesseees have denied or disputed their relationship as a lessor and lessee, rather, it has also not been disputed by the Revenue that the 'VTC Limited' is using premises of the assesseees and has been paying rent to the assesseees which has been duly taken into the account in the returns of the income of the assesseees and due taxes paid thereupon and also accepted as such by the Department. As per the provisions of section 49 of the Registration Act, no document required to be registered shall be received as evidence of any transaction affecting such property or conferring such power unless it has been registered. However, as per the provision of section 49 of the Act, unregistered documents can be received as an evidence of the collateral transactions not required to be affected by registered instrument. In the case in hand, there is no dispute between the parties to lease deed regarding terms and conditions of the lease. The nature of relationship between the company and the assesseees has also not been disputed by the Income Tax Department. If parties to the lease have agreed that there will be a security deposit

maintained by the lessees with the lessor, and they are not disputing it, the Income Tax Department, which is not a party to the transaction, is not competent to dispute the transactions in respect of the rights effecting the immovable property between lessor and lessee or to say that the lessors cannot accept or could not have accepted the security deposits from the lessee only because that the lease deed has not been registered.

In the case in hand, the assessees have established that there is a contractual relationship of lessor and lessee with the company, the land rented out is a high value land, the rent paid by the company has been returned in the income tax returns of the lessors and duly accepted by the Department, there is no question to doubt the payment of security deposits also. The assessees, thus, have proved that it was commercial transaction between the assessees and the company, hence, the deeming fiction of deemed dividend as per the provisions of section 2(22)(e) of the Act cannot be applied in this case.

16. So far as the contention of the Ld. DR that the amount paid as security deposits to different assessees is disproportionate vis-a vis to the share of the assessees in property in question, it is undisputed that the assessees herein are family members and the total security deposits paid by the company to the assessees never exceeded the limit as stipulated in the lease agreement. It is up to the assessees to settle

between them as to in which assessment year what amount of the security deposit will be retained by either or any of them. This cannot be a ground to doubt or to reject the transaction in question. In view of the above, it is held that the assesseees have established that the payments received by them as security deposits were paid by the company in the course of its business, hence, the deeming fiction of deemed dividend to section 2(22)(e) of the Act is not applicable to these transactions. This common ground taken by the assesseees in all the appeals is allowed and additions made by the Assessing Officer on this issue are hereby ordered to be deleted.

17. In the captioned appeal of **Rani Verma in ITA No. 937/Chd/2014 relating to the assessment year 2009-10**, apart from the common ground of deemed dividend, another ground agitating the additions made / confirmed by the lower authorities u/s 68 of the I.T. Act has also been taken which reads as under:-

“2. That the learned Commissioner Of Income Tax (Appeals) has erred in law and facts in confirming the addition of Rs. 64,2,5000/- being entire cash deposited in the bank account, as income u/s 68 of the Income Tax Act. The fact is that assessee has submitted detailed cash flow statement, as well as Statement of Affair of each year to learned AO. Even statement showing date wise availability of cash in hand of each year was submitted to learned CIT (Appeal). As such the confirmation of addition by the Ld. CIT(Appeals) is factually and legally not correct.”

18. The brief facts relating to the issue are that during the assessment proceedings, the Assessing Officer from the perusal of the bank account of the assessee noted that there were cash deposits on different dates totaling Rs. 64,25,000/- during the year under consideration. He, therefore, show caused the assessee to explain the source of the aforesaid deposits of Rs. 64,25,000/- deposited on different dates. The assessee replied that no regular books of account have been maintained by the assessee, however, as per the cash flow statement, there were more withdrawals than the cash deposits in the bank account on different dates and that the deposits in the bank account on different dates were out of cash withdrawals. The Assessing Officer, however, did not get satisfied with the above reply of the assessee. He observed that assessee had not filed date wise cash flow statement, rather, the assessee had filed a consolidated cash flow statement. He observed that the assessee had failed to establish the source of the cash deposits. He, accordingly made an addition of Rs. 64,25,000/- into the income of the assessee u/s 68 of the I.T. Act.

19. The Ld. CIT(A) confirmed the addition so made by the Assessing Officer.

20. Before us, the Ld. Counsel for the assessee has submitted that assessee is an individual and has been filing her returns of income declaring rental income and salary income. That assessee is neither

maintaining regular books of account and nor she is required statutorily to maintain any books of account. That the assessee has filed consolidated statement before the Assessing Officer as well as before the CIT(A) and has given the source of deposits as cash in hand year after year and the same has been reflected in the balance sheet. The closing cash and opening cash as reflected in the consolidated cash flow statement tallies with the date wise cash flow statement furnished before the Ld. CIT(A) which reflects the day to day availability of cash. The Ld. Counsel for the assesseees has invited our attention in this respect to page 23 of the paper book which is copy of the Reconciliation of the Cash Account / cash flow statement to show the date wise cash available with the assessee to meet the deposits made in the bank account. The Ld. Counsel for the assesseees has submitted that each and every entry has been reflected in the consolidated cash flow chart. The aforesaid cash flow statement furnished by the assessee could not be rebutted by the Ld. DR.

21. A perusal of the cash flow statement as well as opening and closing balance of the year proves that the assessee had funds available on the relevant dates to make the deposits in the bank account of the assessee. The source of the deposits in the bank account of the assessee, thus, stands explained by the assessee. In view of this, the addition made by the lower authorities on this issue is also held to be

not justified and the same is accordingly ordered to be deleted. Ground No.2 of the appeal in ITA No. 937/Chd/2017 stands allowed.

No other ground was raised or pressed.

In view of our findings given above, all the appeals of the assessee are hereby allowed.

Order pronounced in the Open Court on 10.07.2019

Sd/-

Sd/-

(एन. के. सैनी / N.K. SAINI)

उपाध्यक्ष /Vice President

Dated : 10.07.2019

“आर.के.”

(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