

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “SMC” BENCH**

**(BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER  
& SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER)**

**ITA. No: 1220/AHD/2013  
(Assessment Year: 2008-09)**

<b>Gladder Ceramics Ltd., Ceramics Zone, Dalpur, Tal. Prantij, Sabarkantha</b>	<b>V/S</b>	<b>The DCIT, Sabarkantha Circle, Himatnagar</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**PAN: AABCG 7607D**

**Appellant by : Shri T. P. Hemani, AR  
Respondent by : Smt. Prajna Paramita, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 19 -04-2018

Date of Pronouncement : 23 -04-2018

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:**

1. This appeal by the Assessee is directed against the order of the Ld. CIT(A)-VIII, Ahmedabad dated 04.02.2013 pertaining to A.Y. 2008-09.

2. The sole grievance of the assessee is that the ld. CIT(A) erred in confirming the addition of Rs. 7,05,700/- made u/s. 68 of the Act.
3. The assessee is engaged in manufacturing of glaze Tiles. The return for the year under consideration was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee.
4. During the course of the scrutiny assessment proceedings, the A.O. noticed that the assessee has brought in new share capital worth Rs. 1.70 crores. Confirmations were obtained from the new share holders and after scrutinizing them, the A.O. found that there were 11 new share holders who have not furnished the requisite details. The A.O. asked the assessee to furnish the necessary details in the light of the provisions of Section 68 of the Act in respect of these 11 new share holders. In its reply, the assessee explained that since all these share holders have transferred their shares in the names of the existing share holders, therefore, the necessary details cannot be furnished.
5. The A.O. was not convinced with the explanation of the assessee and was of the firm belief that the initial burden lies upon the assessee and since the assessee has failed to discharge the initial onus, the A.O. added Rs. 7,05,700/- u/s. 68 of the Act.
6. Assessee carried the matter before the ld. CIT(A) but without any success.
7. Before us, the ld. counsel for the assessee vehemently stated that the assessee had filed the confirmations from all the 11 share holders and the revenue authorities have made the addition only because the assessee could not

substantiate the source of the share holders. It is the say of the ld. counsel that the assessee has successfully discharged the initial burden and therefore the addition made u/s. 68 of the Act is uncalled for. The ld. D.R. strongly supported the findings of the lower authorities.

8. We have given a thoughtful consideration to the orders of the authorities below. The dispute relates to the following share holders who have purchased the shares during the year under consideration:-

<i>Sr.No.</i>	<i>Name</i>	<i>No. of share allotted</i>	<i>Amount (Rs.)</i>
1.	<i>Gitaben Dahyabhai Patel</i>	<i>3000</i>	<i>30,000/-</i>
2 .	<i>Harnesh Laxmichand Vora</i>	<i>19550</i>	<i>1,95,500/-</i>
3	<i>Jayeshbhai Ramjibhai Patel</i>	<i>3000</i>	<i>30,000/-</i>
4	<i>Kapurchand Kantilal Dayani</i>	<i>25200</i>	<i>25,200/-</i>
5	<i>Kashyapbhai Virchand Patel</i>	<i>3500</i>	<i>35,000/-</i>
6	<i>Nathiben Dahyabhai. Patel</i>	<i>3000</i>	<i>30,000/-</i>
7	<i>Pankajbhai Motibhai Patel</i>	<i>23500</i>	<i>2,35,000/-</i>
8	<i>Popatbhai Karshanbhai Patel</i>	<i>4000</i>	<i>40,000/-</i>
9.	<i>Premilaben Rameshbhai Patel</i>	<i>2500</i>	<i>25,000/-</i>
10	<i>Sharmishthaben Dahyabhai Patel</i>	<i>3000</i>	<i>30,000/-</i>
11	<i>Urmilaben Dahyabhai Patel</i>	<i>3000</i>	<i>30,000/-</i>
		<i>TOTAL</i>	<i>7,05,700/-</i>

9. It is true that the assessee has filed confirmations from the afore-stated share holders. It is equally true that other than this the assessee did not file any documentary evidence in respect of its claim. Provisions of Section 68 of the Act clearly show that the initial burden is upon the assessee who is required to furnish details-

- (i) Identity of the creditors
- (ii) Genuineness of the transaction
- (iii) Capacity of the lender/subscriber

10. The assessee has only established the identity of the share holders. Merely because the transactions have been done through banking channels would not establish the genuineness of the transaction and moreover, the assessee has failed to establish, prima facie, the capacity of the share holders. Therefore, it can be safely concluded that the assessee has grossly failed in discharging the initial burden cast upon it by the provisions of Section 68 of the Act. We, therefore, do not find any error or infirmity in the findings of the Id. CIT(A).

11. Appeal filed by the Assessee is accordingly dismissed.

Order pronounced in Open Court on 23 - 04- 2018

Sd/-

**(RAJPAL YADAV)**  
**JUDICIAL MEMBER True Copy**  
Ahmedabad: Dated 23 /04/2018

Sd/-

**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.