

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “C” BENCH**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER  
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)**

**ITA. No: 3029/AHD/2015  
(Assessment Year: 2010-11)**

<b>Shri Pramukhbhai Dahyabhai Patel, At: Raysan Chawkdi, Gh- Road, Gandinagar-382007 (Appellant)</b>	<b>V/S</b>	<b>ACIT, Gandhinagar Circle, Gandhinagar  (Respondent)</b>
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**PAN: ANFPP 8868F**

**Appellant by : Shri P.B. Parmar, AR  
Respondent by : Shri L.P. Jain, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 11 -03-2018

Date of Pronouncement : 13 -03-2019

**PER MAHAVIR PRASAD, JUDICIAL MEMBER**

1. This appeal by the Assessee is directed against the order of the Ld. CIT(A), Gandhinagar, Ahmedabad dated 20.10.2014 pertaining to A.Y. 2010-11 and following grounds have been taken:

1. *The learned CIT(A) has erred both in law and on the facts in passing an ex-parte order without giving proper opportunity of hearing to the appellant.*
2. *The learned CIT(A) has erred both in law and on the facts of the case in confirming the action of AO in adding interest of Rs.27,84,547/- to the value of closing stock after treating it as direct cost to inventories.*
3. *Alternatively and without prejudice, the addition if any, results into increase in the value of closing stock for the year under consideration, the opening stock in the next year may kindly be appropriately increased.*
4. *The learned CIT(A) has erred both in law and on the facts of the case in confirming the action of AO in making an addition of Rs. 10,00,000/- u/s 68 of the act on account of alleged unexplained unsecured loan from M/s Ankur Oil Industries.*
5. *Both the lower authorities have passed the orders without properly appreciating the fact and that they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
6. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in levying interest u/s 234A/B/C/D of the Act.*
7. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in initiating penalty u/s 271(l)(c) of the Act.*

2. In this case, assessee is engaged in the business of purchase and sales of land. During the course of assessment proceedings it is observed that assessee has claimed interest expenditure of Rs. 33,24,048/-. The entire interest cost is attributable to funds used by the assessee for purchase of land which is lying mainly in closing stock. Since assessee has done business of trading in land by using borrowed funds, interest is a cost directly attributable to the cost of land. It is a direct cost for purchase of land. During the year assessee has sold land of Rs. 86,21,513/- only. Thus it is clear that only part of interest attributable to sale of land of Rs. 86,21,513/- is an expenditure pertaining to year under consideration and part of interest attributable to stock of land of Rs.

- 531,26,118/~ is not pertaining to land transaction of year under consideration. In other words proportionate interest of Rs. 5,39,500/- ( $33,24,048 * 86,21,513 / 5,31,26,118$ ) is required to be treated as part of cost of land sold during year and Rs. 27,84,547/- is required to be treated as interest attributable to land lying as closing stock and is required to be added in closing stock of land as a part of cost of that land.
3. In view of the above interest of Rs. 27,84,547/- is treated as a cost of unsold land and disallowed in the year under consideration. And apart from the above said addition of Rs. 10,00,000/- was also made in the hands of the appellant/assessee because assessee was failed to produce the confirmation of all persons from whom new unsecured loans were received during the year. And finally ld. A.O. made addition of Rs. 67,39,990/-.
  4. Against the said order, assessee preferred first statutory appeal before the ld. CIT(A) and as per assessee in the absence of any notice because of some reason, assessee could not appear before the ld. CIT(A). On the other hand, ld. CIT(A) observed that assessee once appeared before him and also sought adjournment but on adjourned date assessee/appellant did not appear. Thereafter, ld. CIT(A) confirmed the action of the ld. A.O.
  5. We have gone through the relevant record and impugned order. At the outset, ld. A.R. requested that in the interest of justice, this matter may kindly be set aside to the file of the ld. CIT(A) for fresh adjudication. We accede the prayer of the ld. A.R. subject to the condition that assessee shall deposit of Rs. 10,000/- as a fine to the department within three months from the receipt of this order. The ld. CIT(A) will proceed with the matter only after production of

the receipt of Rs. 10,000/- from the assessee and thereafter will decide the matter in accordance with law. However, we are not commenting on merit of the case.

6. In the result, appeal filed by the Assessee is allowed for statistical purpose as per term and condition mentioned above.
7. In the result, appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in Open Court on	13- 03- 2019
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Sd/-

**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER** True Copy  
Ahmedabad: Dated 13/03/2019

Sd/-

**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar  
ITAT,Ahmedabad