

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'B'**

**श्री ए.डी. जैन, उपाध्यक्ष एवं श्री अमरजीत सिंह, लेखा सदस्य
BEFORE SHRI A.D. JAIN, VICE-PRESIDENT
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.2152/Ahd/2017

निर्धारण वर्ष/Asstt. Year: 2014-15

Shri Abidali Sabbirali Chidi C/o. Hotel Prestigage Bileshwarpura, Chhatral Tal: Kalol 382 729 PAN : AIYPC 5742 M	Vs.	ITO, Ward-4 Mehsana.
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अपीलार्थी (Appellant)	प्रत्यर्थी (Respondent)
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Assessee by :	Shri Sunil Talati, AR
Revenue by :	Shri Jayant Jhaveri, Sr.DR

सुनवाई की तारीख/Date of Hearing : 10/04/2019

घोषणा की तारीख/Date of Pronouncement: 10/04/2019

आदेश/ORDER

PER A.D. JAIN, VICE-PRESIDENT:

Assessee is in appeal before the Tribunal against the order of the Id.CIT(A), Gandhinagar dated 7.8.2017 passed for the Asstt.Year 2014-15.

2. Though the assessee has taken four grounds of appeal, but his grievance revolves around a single issue whereby he has pleaded that the Id.CIT(A) has erred in confirming the addition of Rs.5.00 lakhs which was added by the AO with the aid of section 68 of the Income Tax Act.

3. Brief facts of the case are that the assessee has filed his return of income on 25.5.2015 electronically declaring total income at Rs.2,77,440/-. The case of the assessee was selected for scrutiny assessment and notice under section 143(2) was issued and served upon the assessee. On scrutiny of the accounts, it revealed to the AO that the assessee has received Rs.5,00,000/- from Shri Kulsumben Shabirbhai Sheliya, and Rs.2,00,000/- from Sabbirbhai Jivabhai Sheliya. According to the AO, the assessee failed to fulfill the requirement contemplated under section 68 of the Income Tax Act, hence he made an addition of Rs.7,00,000/-. On appeal, the assessee filed additional evidence under Rule 46A of the Income Tax Rules, 1962 which were taken on record and remand report was called from the AO. The assessee has filed confirmation, bank statement and all other details. It was contended that the loan was received from the mother's account by cheque, details of the bank statements were given. He has given copies of income-tax returns of the creditors. But somehow, the Id.CIT(A) was not satisfied with the explanation of the assessee and observed that cash deposits in the accounts of the creditors before the issue of cheques.

4. With the assistance of the Id.representatives, we have gone through the record carefully. Section 68 of the Income Tax Act contemplates that where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof, or the explanation offered by the assessee is not, in the opinion of the AO satisfactory, then the sum so credited in the accounts may be treated as income of the assessee of that previous year.

5. It emerges from the record that in order to fulfill ingredients under section 68 of the Act, the assessee has submitted confirmation, bank statement, copies of the return from the creditors. Thus, he has proved identity, genuineness of the transaction, and by submitting income-tax return proved credit-worthiness. Contrary to the above evidence no inquiry was made by the Revenue officials, and therefore, there is nothing possessed by the AO, but doubting the material brought on record by the assessee. Considering all these material, we are satisfied that the assessee has explained sources of the cash credit as well as proved credit worthiness, genuineness of the transaction, hence no addition under section 68 required to be made.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 10th April, 2019.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(A.D. JAIN)
VICE-PRESIDENT