

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“RAJKOT” BENCH, RAJKOT**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER &  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 441/Rjt/2017  
(निर्धारण वर्ष / Assessment Year : 2013-14)

<b>M/s. Bright Construction</b> 366, 3 <sup>rd</sup> Floor, Kuber Avenue, Gurudawara Road, Jamnagar	<b>बनाम/</b> Vs.	<b>Assistant Commissioner of Income Tax</b> Circle-3, Jamnagar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAJFB9545L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / <b>Appellant by :</b>	Mr. Himanshu Agrawal, A.R.
प्रत्यर्थी की ओर से / <b>Respondent by :</b>	Mr. Praveen Verma, Sr. D.R.

सुनवाई की तारीख / <b>Date of Hearing</b>	08/05/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	31/05/2019

आदेश/ORDER

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax(Appeals), Jamnagar ('CIT(A)' in short), dated 07.09.2017 arising in the assessment order dated 03.02.2016 passed by the

Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2013-14.

2. By way of its grounds of appeal, the assessee has challenged the additions made by the AO amounting to Rs.3,28,000/- under the provisions of Section 68 of the Act.

3. The assessee firm is a Civil Contractor and has filed return of income at Rs.24,80,680/- for AY 2013-14 in consideration. In the course of assessment proceedings, the AO observed that the assessee has received unsecured loan from three parties aggregating to Rs.3,28,000/- which were also squared up and repaid during the year under consideration. The details of loans from different parties are reproduced hereunder:

<i>Name of depositor</i>	<i>Amount of loan (Rs.)</i>	<i>Mode of receipt of loan</i>
<i>Keval Marketing</i>	<i>290000</i>	<i>By cheque</i>
<i>Vinodrai P Patel</i>	<i>19000</i>	<i>By cash</i>
<i>Ansuyaben Patel</i>	<i>19000</i>	<i>By cash</i>
	<i>328000</i>	

The AO disputed the bonafides of loans received from the parties and alleged lack of documentary evidences to support the creditworthiness and genuineness of the depositors. The AO accordingly invoked the provisions of Section 68 of the Act and added the loans received from these parties as unexplained and credit in the hands of the assessee.

4. The assessee could not successfully redress its grievances against the aforesaid action of the AO before the CIT(A) either.

5. Further aggrieved, the assessee preferred appeal before the Tribunal.

6. We have heard the rival submissions on the issue in controversy and perused the orders of the AO and CIT(A) as well as material placed on record. We notice a few undisputed facts namely the assessee has furnished confirmations from all the depositors. The bank statement of the prime lender namely M/s. Keval Marketing was also produced. The bonafides of loans obtained from M/s. Keval Marketing was disputed mainly on the ground that the lender has deposited cash before issuance of cheque and also the lender has not filed the return of income. The assessee explained in response that the return was not filed by M/s. Keval Marketing on account of income below taxable limit. The assessee also explained the reason for deposit of cash having regard to the nature of business (retail sale and purchase of cement) the lender is engaged in. On perusal of the orders of the authorities below, we do not see any attempt on behalf of the Revenue to examine the lender. In the absence of any contradiction from the lender, the confirmation filed by the respective parties cannot be summarily brushed aside. The observations made by the AO cast strong suspicion. However, no inquiry was made. Suspicion is the mother of inquiry. In the absence of any inquiry, the confirmation is required to be believed more so where the loans stood repaid and no benefit of increase in capital has accrued to the assessee *per se*. The fact of repayment of loans requires to be given due significance in the facts and circumstances of the case. Thus, we find merit in the plea of the

assessee. The order of the CIT(A) is accordingly set aside and the AO is directed to delete the additions so made.

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

**This Order pronounced in Open Court on 31/05/2019**

Sd/-  
(RAJPAL YADAV)  
JUDICIAL MEMBER  
Ahmedabad: Dated 31/05/2019

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

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, Rajkot