

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' SMC Bench, Hyderabad**

Before Smt. P. Madhavi Devi, Judicial Member

ITA No.697/Hyd/2017		
Assessment Year: 2007-08		
Shri Darshan Parikh, Hyderabad PAN:AIOPP5429N	Vs.	Asstt. Commissioner of Income Tax, Circle 12(1) Hyderabad
(Appellant)		(Respondent)
ITA No.698/Hyd/2017		
Assessment Year: 2007-08		
Smt. Namita Ankit Parikh, Hyderabad PAN:ACJPN2826Q	Vs.	Asstt. Commissioner of Income Tax, Circle 12(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Sri K.A. Sai Prasad	
Revenue by:	Sri Anil Sant, DR	
Date of hearing:	04/11/2019	
Date of pronouncement:	17/01/2020	

ORDER

Both are the appeals of the respective assessees for the A.Y 2007-08 against the separate orders of the CIT (A)-I, Hyderabad, dated, 26.12.2016.

2. Brief facts of the case are that both the assessees are closely related and filed their respective returns of income for the A.Y 2007-08. Based on the information that both the assessees have made investment in M/s. Parikh Fabrics (P) Ltd and as the same was not reflected in their original returns of income, the cases were reopened by issuance of a notice u/s 148 to verify the sources of the investments. The AO noticed that M/s. Parikh

Fabrics (P) Ltd was launched as a closely held company by the members of Parikh family, in which both the assesseees were also shareholders and employees. The assessee, Sri Darshan Parikh submitted the statement of affairs as on 31.03.2007 along with a note on the sources of investments made in M/s. Parikh Fabrics (P) Ltd and copy of the Bank A/c statements in proof of the same. The assessee also furnished ledger extract of M/s. Parikh Fabrics (P) Ltd and also submitted proof for the claim of 80C deduction. The assessee was also asked to submit the statement of affairs and note on gifts received by the assessee during the year. The assessee submitted the same. Thereafter, the assessee was directed to explain the source of investments with supporting evidence such as the amount of Rs.4.00 lakhs received from M/s. Parikh Fabrics (P) Ltd; loans and advances of Rs.2,25,602/-, an amount of Rs.3,25,000/- from cash and bank balances.

3. In the case of Smt. Namita Ankit Parikh, she explained the sources of investment as Rs.4.00 lakhs directly transferred from M/s. Parikh Fabrics (P) Ltd; and loans and advances received back of Rs.4.00 lakhs; and Rs.1,50,000/- from cash and bank balances. The respective assesseees filed their replies to the show cause notices of the AO. The AO, however, did not accept the assesseees' contention and held that the sum of Rs.4.00 lakhs as was allegedly transferred from M/s. Parikh Fabrics (P) Ltd by way of journal entry, is nothing but an accommodation entry. As regards the loans and advances received by the assesseees, the AO has held that the assessee has not produced any details of relevant bank statements in support of their contentions. He held that the assesseees being employees with meagre income could not have advanced such huge amounts of loans. Thus, he did not

accept the creditworthiness of the assesseees to make such investments. As regards the cash and bank balances also, he held that the assesseees did not have creditworthiness to have bank and cash balances to that extent. He, therefore, brought the unexplained investments made by the respective assesseees in M/s. Parikh Fabrics (P) Ltd to tax. Aggrieved, the respective assesseees preferred appeals before the CIT (A), who confirmed the orders of the AO and the assesseees are in further appeals before the Tribunal. The assessee Shri Darshan Parikh has raised the following grounds of appeal:

“1. The learned CIT (A) is not justified in rejecting the appellant’s contention that the initiation of proceedings u/s 147, in the facts and circumstances of the case is not valid.

2. The learned CIT (A) is not justified in the facts and circumstances of the case, in confirming the addition of Rs.9,50,000 as unexplained investments.

3. The appellant reserves her right to add, alter or delete any of the grounds during the course of hearing”.

5. The assessee, Smt. Namita Ankit Parikh also raised same grounds except for the change in the quantum.

6. The learned Counsel for the assessee reiterated the submissions made by the respective assesseees before the authorities below, while the learned DR supported the orders of the authorities below.

7. The learned Counsel for the assessee had referred to the paper book filed by the assessee in the case of each of the assesseees and particularly to the general ledger of M/s. Parikh Fabrics (P) Ltd. In the case of Shri Darshan Parikh, he submitted that except for a sum of Rs.1,25,000/- deposited on 5.10.2006,

there is no sum which has been introduced by the assessee as fresh capital. Similar submissions were made in the case of Smt. Namita Anikt Parikh as well. I find that the general ledger for the period 1.4.2006 to 31.3.2007 demonstrates the investments made by the assessee into the capital a/c of M/s. Parikh Fabrics (P) Ltd and it is seen therefrom that the assessee has received salary from M/s. Parikh Fabrics (P) Ltd which has been credited to the assessee's a/c and from such amount, the assessee has transferred the fund to the firm as her capital. The AO has doubted the services rendered by the assessee to the firm. However, I am of the opinion that the AO could have verified with the company as to the nature of the services rendered by the respective assessee. Since there is no evidence of any disallowance of salary paid to the employees in the hands of the company M/s. Parikh Fabrics (P) Ltd, I am inclined to accept the explanation offered by the assessee with regard to the sources of the investment. Further, from the Bank A/c copy of the assessee with Bank of India, I find that the sum of Rs.4.00 lakhs was paid to the assessee by the company which was returned by the assessee and therefore, it is not the case of any investment of capital. Even with regard to the sum of Rs.1,25,000/- I find that the assessee had the balance of Rs.2,25,602/- from which he has made the payment to the M/s. Parikh Fabrics (P) Ltd. Similarly, in the case of Smt. Namita Ankit Parikh also, there are credits to the capital a/c from the payment of salary made to the assessee by M/s. Parikh Fabrics (P) Ltd. When the salary payment to the employees is not doubted in the hands of the employer company, the same cannot be doubted in the hands of the employees. In view of the same, I am inclined to delete the additions made by the AO and confirmed by the CIT (A).

8. As regards the assessee's grounds on the initiation of proceedings u/s 147, since the appeals are being allowed on merits, I am not inclined to adjudicate this ground as it would only be an academic exercise at this stage. Accordingly, Ground No.1 is rejected and Ground No.2 is allowed. In view of the same, the assessee's appeals are treated as partly allowed.

9. In the result, appeals are treated as partly allowed.
Order pronounced in the Open Court on 17th January, 2020.

Sd/-

**(P. MADHAVI DEVI)
JUDICIAL MEMBER**

Hyderabad, dated 17th January, 2020.

Vinodan/sps

Copy to:

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- 3 CIT (A)-I Hyderabad
- 4 Pr. CIT – I Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order