

INCOME TAX APPELLATE TRIBUNALSURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER  
AND Dr. ARJUN LAL SAINI, ACCOUNTANT MEMBER

(Virtual Hearing)

आ.अ.सं./I.T.A No.632/SRT/2017

निर्धारण वर्ष/Assessment Year: 2012-13

The Deputy Commissioner of Income Tax, Circle-2(1)2, Room No. 205, Aayakar Bhawan, Majura Gate, Surat.	Vs	Salasar Yarns Pvt Ltd, 5007, World Trade Centre Ring Road, Suart. <b>[PAN: AAFCS 4194 R ]</b>
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी/Respondent</b>
निर्धारितीकीओर से /Assessee by		Shri T. R. Mody CA
राजस्वकीओर से /Revenue by		Shri S.T.Bidari – CIT-DR
सुनवाई की तारीख/ Date of hearing:		28.04.2021
उद्घोषणा की तारीख/Pronounced on:		10.05.2021

**आदेश / O R D E R**

**PER PAWAN SINGH, JUDICIAL MEMEBER:**

1. This appeal by the Revenue is directed against the order of Id. Commissioner of Income Tax (Appeals)-2, Surat hereinafter referred as “Ld. Commissioner (Appeals)” dated 22.06.2016 for the assessment year (AY) 2012-13. The Revenue has raised following grounds of appeal:

1. *On the facts and in the circumstances of the case and in law, the Ld. CIT (A) has not erred in deleting the additions of Rs. 7,82,77,330/- on account of unexplained cash credit u/s 68 of the Act on account of share capital & share premium merely on the ground that these amount have been added in the hands of investor companies.*
2. *On the facts and in the circumstances of the case and in law, the Ld. CIT (A) has not erred in not appreciating the facts that*

*even though the additions in respect of the amount of Rs. 7,82,77,330/- has been confirmed in the hands of investors companies, the investor companies have not accepted the addition and are agitating the same before the Hon'ble Tribunal.*

3. *On the facts and in the circumstances of the case and in law, the Ld. CIT (A) has not erred in not appreciating the facts that the share application money found credited in the books of accounts of the assessee received from Salasar Filaments Pvt Ltd, Todi Rayons Pvt Ltd & Salasar Polytex Pvt Ltd were lacking genuineness of transaction.*
4. *On the facts and in the circumstances of the case and in law, the Ld. CIT (A) ought to have upheld the order of assessing officer. It is therefore prayed that the order of the Ld. CIT (A) may be set aside and the assessing officer may be restored.*

2. Brief facts of the case are that the assessee is a company and filed its return of income for the assessment year 2012-13 declaring income of Rs.28,82,610/-. The return of income was selected for scrutiny. During the assessment the assessing officer received information from Income tax Officer (ITO) Ward -2(1)(1) and ITO ward -2(1)(4) that Salasar Polytex Pvt Ltd , Todi Rayons Pvt Ltd and Salasar Polytex Pvt Ltd received share premium and share capital from various Companies during the financial year 2011-12, which have been advanced to the assessee company as unsecured

loan. The assessing officer noted that the assessee has received unsecured loans from the following those companies;

Sr. No	Name of the parties	PAN	Amount Rs.
1	Salasar Filaments Pvt Ltd.	AAFCS 2081 K	1,90,00,000/-
2	Todi Rayons Pvt Ltd	AABCT 6078 M	3,05,19,700/-
3	Salasar Polytex Pvt Ltd.	AAECS 0838 D	2,87,57,630/-
4	Raj R Todi	ABRPT 3109 P	80,000/-
5	Dimple Devi Todi	AARPT 2658 N	8,00,000/-
<b>Total</b>			<b>7,91,57,330/-</b>

3. The assessing officer after issuing show cause notice and hearing the submissions of the assessee treated the amount of Rs. 7,82,77330/- as unexplained cash credit under section 68 of the income tax Act (Act), except the amount received from parties No. 4 &5. On appeal before learned Commissioner (Appeals) entire additions were deleted. The ld. Commissioner (Appeals) deleted the additions by taking view that the amount has already been added in the hand of investor companies. Thus, aggrieved by the order of the ld. Commissioner (Appeals) the revenue has filed present appeals before this Tribunal by raising the grounds of appeals narrated above.
4. We have heard the submissions of the learned authorised representative (ld. AR) for the assessee and the learned Senior departmental representative (Sr DR) for the revenue and have seen the orders of the lower authorities.

5. At the outset of hearing the learned ld. AR of the assessee submits that as per the contents of grounds of appeal raised by the revenue, the ld Commissioner (Appeals) deleted the additions at the hand of assessee additions of Rs. 7,82,77,330/- on account of unexplained cash credit on the ground that same amount have been added in the hands of investor companies namely Salasar Filaments Pvt Ltd, Salasar Polytex Pvt Ltd and Todi Rayans Pvt Ltd. All three companies are group companies of the assessee. All group companies of the assessee accepted the additions in their hand and have paid the due tax by availing the benefits of Vivad se Visvas Scheme-2020 (VSV-20). The ld AR for the assessee also furnished the copies of the Form-3 of VSV-20, received by all three companies. The ld AR on the basis of his aforesaid submissions submits that amount which was added in the hands of the assessee has already been taxed in the hands of investor companies and the order of the ld. Commissioner (Appeals) is liable to be upheld by dismissing the appeal of the revenue.
6. On the other hand the ld DR for the revenue after going through the order of ld. CIT(A) and the copy of the Form-3 of VSV-20 in respect of all three group companies submits that he strongly rely of the order of assessing officer.

7. We have considered the rival submissions of the parties and gone through the order of the lower authorities and the copies of the Form-3 of VSV-20 in respect of all three investor companies at the hand of which the additions of similar amount was made. For completeness of this order the details of Form-3 of VSV-20, of all three investor companies ( for AY 2012-13/same assessment year) are recorded given below;

Sr. No	Name of the parties	PAN	Acknowledgement No.
1	Salasar Filaments Pvt Ltd.	AAFCS 2081 K	867137620221220
2	Todi Rayons Pvt Ltd	AABCT 6078 M	840549410181220
3	Salasar Polytex Pvt Ltd.	AAECS 0838 D	115521770060121

8. There is no dispute that the assessee received unsecured loan from its group companies. The similar amount has been added in their hands, and which has been accepted by them. Further all the investor companies have paid due tax by availing the benefits of VSV-20. Considering the facts that the additions in the investor companies have been accepted and the investor companies have accepted the additions and have settled the dispute with the revenue by paying tax after availing the benefits of VSV-20, we affirm the order of Id CIT(A) in taking view that the same amount had already been added in the hand of investor companies. In these circumstances we affirm the order of Ld. Commissioner (Appeals).

No contrary fact or law is brought to our notice to take other view.

In the result the grounds of appeal raised by the revenue are rejected.

9. In the result the appeal of the revenue is dismissed.

Order pronounced on 10<sup>th</sup> May 2021 by placing the result on notice board.

**Sd/-**

(Dr. ARJUN LAL SAINI)

(लेखा सदस्य/ACCOUNTANT MEMBER)

(Author)

**Sd/-**

(PAWAN SINGH)

(न्यायिक सदस्य/JUDICIAL MEMBER)

सुरत/ Surat, दिनांक Dated: 10 May 2021

Copy of order sent to-

Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

**By order**

/ / TRUE COPY / /

**Assistant Registrar, Surat**