

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**" SMC" BENCH, AHMEDABAD**  
(CONDUCTED THROUGH VIRTUAL COURT AT AHMEDABAD)

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**  
**And**  
**MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

आयकर अपील सं./ITA No. 2352/AHD/2018  
निर्धारण वर्ष/Asstt. Year: 2012-2013

Ras Concepts Pvt. Ltd., 425, Saman Complex, Opp. Nalanda Complex, Vastrapur, Ahmedabad-380015.  <b>PAN: AAACR9231M</b>	Vs.	I.T.O., Ward-3(1)(3), Ahmedabad.
--	-----	--

<b>(Applicant)</b>		<b>(Respondent)</b>
--------------------	--	---------------------

Assessee by :	Shri Pritesh L. Shah. A.R
Revenue by :	Shri S.S. Shukla, Sr.D.R

सुनवाई की तारीख / **Date of Hearing** : **01/12/2021**  
घोषणा की तारीख / **Date of Pronouncement**: **07/02/2022**

**आदेश/ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax(Appeals)-9, Ahmedabad, dated 26/09/2018 arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2012-2013.

2. The assessee has raised the following ground of appeal:

*The learned CIT(A) erred in law and on facts in confirming addition amounting to Rs.12,00,000/- considering the same as accommodation entry, such addition is requested to be deleted.*

3. The solitary issue raised by the assessee is that the learned CIT-A erred in confirming the addition made by the AO for Rs. 12 lacs on account of unexplained cash credit under section 68 of the Act.

4. There was a search and seizure operation under section 132 of the Act dated 27 September 2012 in the case of Manoj Aggarwal group of cases at Palanpur. During the search proceedings it was discovered that among other companies, the company namely Monisha Infrastructure private Ltd was engaged in providing the accommodation entry. The assessee in the year under consideration has obtained unsecured loan of ₹12 lakhs. Accordingly, the AO treated the same as non-genuine loan and made the addition under section 68 of the Act to the total income of the assessee.

5. Aggrieved assessee preferred an appeal to the learned CIT-A who also confirmed the order of the AO by observing as under:

*The appellant during the course of appellate proceedings has contended that it has received a loan of Rs. 6 lacs and repaid the same during the year and therefore the credit is genuine. The appellant further stated that the credit of Rs. 6.lac has appeared twice as the cheque issued was returned back due to mis-match on first account. The appellant has submitted a confirmation and bank statement and acknowledgement of I.T. Return of Monisha Infrastructure Pvt. Ltd. in support of his contention. It has been seen that the confirmation account has not been signed by Monisha Infrastructure Pvt. Ltd. The bank account submitted is relating to the appellant but not of the Monisha Infrastructure Pvt. Ltd. The A.O. has made the addition on the basis of detailed enquiry and statement of the director of M/s.Monisha infrastructure Pvt. Ltd. who has confirmed that the company is engaged in the business of accommodation entry.*

6. Being aggrieved by the order of the learned CIT-A, the assessee is in appeal before us.

7. The learned AR before us filed a paper book running from pages 1 to 55 and contended that the assessee has received only 6 lakhs of rupees as unsecured loan from the company namely Monisha Infrastructure private Ltd dated 1 December 2011 which was returned on 6 January 2012. As such, the repayment of the loan was effected on 6<sup>th</sup> of January 2012 but the same was failed and therefore there were double entries reflecting in the bank statement. One entry was of the repayment and the other entry was of the cancellation of such repayment which was shown in the deposit column of the bank statement. But the revenue authorities has misunderstood these entries. The learned AR in support of his contention drew our attention on the bank statement which is placed on pages 53 to 54 of the paper book.

7.1 Besides the above, the learned AR also contended that the amount of loan received by the assessee has been repaid and therefore the genuineness of the transactions cannot be doubted merely on the reasoning that the other party being Monisha Infrastructure private Ltd is engaged in the activity of accommodation entry. It was also alleged by the learned AR that the opportunity of cross-examination was not afforded to the assessee.

8. On the other hand the learned DR vehemently supported the order of the authorities below.

9. We have heard the rival contentions of both the parties and perused the materials available on record. First of all, we note that there were double entries appearing in the bank statement for repayment of the loan of ₹ 6 lakhs which were cancelled and reflected as deposits in the bank. This fact can be verified from the necessary details of RTGS application to the bank and the bank statements which are placed on pages 52 to 54 of the paper book. All these facts, have not been disputed by the learned DR appearing on behalf of the Revenue. Had there been any doubt about the amount of loan, the revenue could have verified the same from

the bank. But we note that no such verification has been carried out by the authorities below. Accordingly we hold that, the assessee has received a sum of ₹6 lakhs from the party and not ₹12 lakhs as alleged by the revenue.

9.1 It is also not out of the place to mention that the loan received by the assessee in the year under consideration was refunded in the same financial year. It implies that the assessee was not the beneficiary of the loan received by it as alleged by the AO. Thus, we can assume that the impugned transaction was the business transactions between the assessee and the loan parties. In this regard, we find that the Hon'ble Gujarat High Court in the case of the CIT Vs. Rohini builders reported in 256 ITR 360 has observed as under:

*"The genuineness of the transaction is proved by the fact that the payment to the assessee as well as repayment of the loan by the assessee to the depositors is made by account payee cheques and the interest is also paid by the assessee to the creditors by account payee cheques."*

9.2 Had there been any doubt by the Revenue on the repayment of the loan as claimed by the assessee, it was the duty of the revenue to carry out the necessary verification. It is for the reason that the assessee has discharged its onus by furnishing the necessary details in support of the repayment of the loan. Accordingly the onus shifted upon the revenue to disprove the contention of the assessee based on the documentary evidence. But we note that no documentary evidence has been brought on record by the Revenue to disprove the contention of the assessee.

9.3 Before we conclude, we are conscious to the fact that the provisions of Section 68 of the Act are deeming provisions which implies that there are certain transactions which are not the income of the assessee but these are deemed as income under the relevant provisions of the Act. Thus, we have to see the deeming provisions beyond the facts available on record. However, the question arises for the adjudication whether only the credit entries should only be considered for the purpose of cash credit entries as provided under section 68 of the Act after ignoring

the debit entries. To our mind the debit entries cannot be set aside for determining the income of the assessee.

9.4 In view of the above, we are of the opinion that, though the transactions of the loan received by the assessee are not free from any doubt but in either of the case, once repayment of the loan has been established based on the documentary evidence, the credit entries cannot be looked into isolation after ignoring the debit entries. Thus in view of the above and after considering the facts in totality, we are not inclined to uphold the finding of the learned CIT-A. Accordingly we set aside the finding of the learned CIT-A and direct the AO to delete the addition made by him. Hence the ground of appeal of the assessee is allowed.

10. In the result, the appeal of the assessee is **allowed**.

**Order pronounced in the Court on 07/02/2022 at Ahmedabad.**

**Sd/-  
(SUCHITRA KAMBLE,  
JUDICIAL MEMBER**

**Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER**

Ahmedabad; Dated **(True Copy)**  
07/02/2022  
*Manish*