

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

(Conducted through Virtual Court)

**ITA No.136/Ahd/2018
Assessment Year: 2013-14**

Income Tax Officer,
Ward-2(1)(3), Ahmedabad.

vs.

M/s. IRM Services Pvt. Ltd.,
55/8, City Mill Compound,
Near Divan Ballubhai High
School, Kankaria,
Ahmedabad – 380 008.
[PAN – AABCI 5815 K]
(Respondent)

(Appellant)

Appellant by : Shri S.S. Shukla, Sr. D.R.
Respondent by : Shri Hersh S. Jani, A.R.

Date of hearing : 07.03.2022
Date of pronouncement : 06.04.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by the Revenue against the order dated 12.10.2017 passed by the CIT(A)-2, Ahmedabad for the Assessment Year 2013-14.

2. The grounds of appeal raised by the Revenue are as under :

"1. *The Ld. CIT(A) erred in deleting the addition of Rs.1,55,00,000/- u/s. 68 of IT Act.*

1.1 *The Ld. CIT(A) has erred in law and fact admitting the additional evidences in gross violation of Rule 46A of IT Rules.*

1.2 *The Ld. CIT(A) has erred in law and on facts by accepting the said loan based on the bank transactions which does not prove the creditworthiness of the loan giver to the transaction.*

1.3 *The Ld. CIT(A) has erred in law and on facts by not appreciating that in the subsequent year, the assessee has itself added back such amounts to its income."*

3. The assessee Company is in the business of share trading through broker. The return of income was filed on 27.09.2013 declaring total loss at (-)Rs.12,21,201/- The Assessing Officer observed that the Balance Sheet of the assessee is showing that the assessee Company had taken unsecured loan of Rs.10,57,10,000/- from three parties and had purchased the shares to the tune of Rs.12,61,96,979/-, out of which shares of Rs.2,37,35,235/- were sold out and closing stock of Rs.10,34,72,250/- was shown. During the assessment proceedings, for verification of unsecured loan, the Assessing Officer issued notices under Section 133(6) of the Income Tax Act, 1961 to the said three parties from whom the unsecured loan of Rs.10,57,10,000/- was shown. The assessee filed reply along with certain documents. The Assessing Officer has made addition of Rs.9,57,00,000/- in respect of unexplained cash credit under Section 68 of the Act.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. D.R. submitted that the CIT(A) was not right in admitting additional evidence and the admission of evidence was not in consonance with Rule 46A of the I.T. Rules. The Ld. D.R. further submitted that the CIT(A) was not right in accepting the said loan based solely on the bank transactions which does not prove the credit worthiness of the loan giver of the transaction. The CIT(A) also erred in facts by not appreciating that in subsequent year, the assessee itself added back such amount to its income. The Ld. D.R. further submitted that the assessee could not produce any parties before the Assessing Officer for proving the identity, creditworthiness and genuineness of the unexplained cash credit. The Ld. D.R. further submitted that the CIT(A)'s order is non-speaking order, therefore, the matter may be remanded back.

6. The Ld. A.R. relied upon the order of the CIT(A) and further submitted that the additional evidence was rightly admitted by the CIT(A) and the Assessing Officer has not given ample opportunity to the assessee to produce the same before him. As regards merits of the case, the Ld. A.R. submitted that the assessee has given details of the loan creditor and also given confirmation to the extent of the loan by the parties. The assessee has also given bank statement of each of the parties of related transactions as well as entries. The Ld. A.R. submitted that the Assessing Officer at no point of time held that the transaction was not genuine. Merely saying that it is not having creditworthiness will not suffice to invoke Section 68 of the Act,

when the assessee has given the details related to identity, creditworthiness & genuineness of the transaction.

7. We have heard both the parties and perused all the relevant materials available on record. The CIT(A) has given a detailed finding thereby stating that the assessee has given all the required documents in the form of additional evidence of all the three Loan creditors. From the perusal of the documents produced before us, it can be seen that this loan credit was properly notified by the assessee and the stand taken by the Revenue that there was a revision of valuation of closing stock does not sustain. During the scrutiny assessment, the assessee filed copy of account, contra account, confirmation, copy of audit report for fresh unsecured loans of Rs.9,57,00,000/-. At the appellate proceedings before CIT(A), the assessee filed bank statements and evidences of receipt of RTGS from depositors'. The valuation of closing stock was in accordance with the opening stock for subsequent year and there is no discrepancy pointed out by the Ld. D.R. at the time of hearing, therefore, the CIT(A) was right in deleting the addition. Thus, there is no need to interfere with the observations of the CIT(A) and hence the appeal of the Revenue is dismissed.

8. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on this 6th day of April, 2022.

Sd/-
(BHAGIRATH MAL BIYANI)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 6th day of April, 2022

PBN/*

Copies to: (1) The appellant
(2) The respondent
(3) Commissioner
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad