

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.339/Mum/2021
(A.Y. 2015-16)**

Premilaben Harilal Thakkar, 12/29, Navjivan Society, Lamington Road, Mumbai – 400 008	Vs.	Pr.CIT-20 Room No.418, 4 th Floor, Piramal Chamber, Lal Baug, Parel, Mumbai - 400012
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AERPT3405P		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Riddhi Mishra

Date of Hearing	17.10.2022
Date of Pronouncement	21.10.2022

आदेश / O R D E R

Per Amarjit Singh (AM):

The present appeal filed by the assessee is directed against the order passed by the ld. Pr.CIT-20, Mumbai which in turn arises from the order passed by the A.O u/s 143(3) of the Act. The assessee has raised the following grounds before us:

- “a On the facts and in the circumstances of the case and in law, the Principal Commissioner of Income Tax, M.C.20, Mumbai, hereinafter referred to as the ld PCIT 20 has erred in Passing the Order u/s 263 stating that the assessment proceeding was completed by the AO, without verifying the genuineness of unsecured loans taken by the assessee. The Order was passed without appreciating the fact that the Appellant has already

submitted all documents required by the AO, and the AO had closed the proceedings only after verifying the genuineness of all the transactions

- b. On the facts and in the circumstances of the case, the said order passed u/s 263 is null & void as the said issue was discussed at the time of Assessment proceedings & assessment order was passed after application of mind on the said issue by the Id Assessing Officer, Ward-20(2)(5)*
- c. All the Grounds of Appeal are without prejudice to each other.*
- d. The assessee craves leave to add, alter, and amend the grounds of appeal at the time of hearing.”*

2. This case was listed for hearing for 8 times but neither anybody attended from the side of the assessee nor submitted any written submission, therefore, case of the assessee is adjudicated after taking into consideration the material on record and argument of Id. D.R.

3. Fact in brief is that assessment u/s 143(3) of the Act was finalized on 29.11.2017 declaring nil income as per return of income. Subsequently, the Id. Pr.CIT after verification of the assessment record observed that A.O has not verified genuineness of the loan of Rs.4,35,00,000/- taken from Shri Shantilal J. Soparilal and Rs. 1 crore taken by the assessee from Smt. Kusumben Shantilal Jataniya. In response to notice u/s 263 of the Act the assessee submitted by letter dated 08.02.2001 to the Pr.CIT a copy of Income Tax Return of Smt. Kusumben Jataniya along with copy of assessee's ledger account in her books and copy of ledger of Kusumben in the assessee's book. Thereafter, on perusal of material available in the assessment record the Id. Pr.CIT stated that the submission made by the assessee were neither called by the A.O nor the assessee had filed it before the A.O. During the course of assessment proceedings A.O has not made any verification on the issue of huge unsecured loan obtained by the assessee in respect of the fact that assessee was having only income from other sources to the amount of Rs.46,124/-. Therefore, the Id. Pr.CIT held that the

genuineness of the loan amount has not been verified by the A.O at the time of assessment u/s 143(3) of the Act. The ld. CIT(A) held that order passed u/s 143(3) is erroneous in so far as it is prejudicial to the interest of the revenue.

4. During the course of appellate proceedings before us the ld. D.R vehemently contended that A.O has not made any enquiry pertaining to the genuineness of the unsecured loan obtained from the two parties. She supported the order of the ld. Pr.CIT.

5. Heard the ld. D.R and perused the copy of paper book filed by the assessee on 08.10.2021. After perusal of the assessment record it is noticed that assessee had shown only income from other sources to the amount of Rs.46,124/-. We have perused the paper book dated 08.10.2021 filed by the assessee wherein only the copies of submission made before Pr.CIT during the course of proceedings u/s 263 of the Act comprising copy of notice issued u/s 263 of the Act along with reply filed by the assessee etc. before the ld. Pr.CIT were filed. However, the assessee has not filed any evidence to demonstrate any particular enquiry made by the A.O by issuing of notice u/s 142(1) of the Act, and corresponding reply given by the assessee during the course of assessment proceedings in respect of verification of the impugned unsecured loan to the amount of Rs.4.35 crores and Rs. 1 crore obtained from Shri Shantilal J. Sopariwala and Smt. Kusumben Shantilal Jataniya, respectively. Therefore, looking to the facts and circumstances, we don't find any infirmity in the decision of ld. CIT(A) in holding that assessment order completed u/s 143(3) of the Act dated 29.11.2017 as erroneous and prejudicial to the interest of revenue and setting aside the same to the A.O for reframing the assessment after verification of the

impugned loan transaction. Therefore, both the ground of appeal of the assessee are dismissed.

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 21.10.2022

Sd/-
(Aby T Varkey)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 21.10.2022

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.