

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.947/Ahd/2017
Assessment Year: 2013-14**

M/s. Motorola Technologies Ltd., vs. Dy. Commissioner of Income Tax,
C/o. Ambalal M. Shah & Co., Circle – 2(1)(2), Baroda.
Chartered Accountants,
108, Bell-e-vista Complex,
Race Course Chakli Circle,
Vadodara – 390 007.
[PAN – AAACN 7710 M]
(Appellant) (Respondent)

Assessee by : Shri Manish J. Shah, AR &
Shri Rushin Patel, AR
Respondent by : Shri Vidhyut Trivedi, Sr. DR

Date of hearing : 09.11.2022
Date of pronouncement : 16.11.2022

ORDER

This appeal is filed by the Assessee against the order dated 21.02.2017 passed by the CIT(A)-2, Vadodara for the Assessment Year 2013-14.

2. The assessee has raised the following grounds of appeal :-

“1. *On the facts and in the circumstances of the case the learned CIT(A) erred on law and on facts in confirming the invocation of the provisions of section 68 of the I.T. Act 1961 and thereby making additions of Rs.24,00,000/- to the returned income.*

The learned A.O. failed to appreciate the nature of transaction and also failed to appreciate the confirmation furnished during the course of assessment proceedings.

The addition made by the AO being uncalled for and unwarranted your appellant therefore in the interest of justice requests hereby to delete the addition of Rs.24,00,000/-.

Your appellant therefore in the interest of justice requests hereby to delete the addition.”

3. The assessee company is engaged in the business of manufacturing and trading of oil. The assessee filed return of income on 30.09.2013 declaring total income of Rs. Nil. During the course of assessment proceedings, the Assessing Officer observed that the assessee has taken some unsecured loan as shown in its Balance Sheet and called for details after taking cognisance of the details and submission of the assessee. The Assessing Officer made addition of Rs.24,00,000/- thereby disallowing unsecured loan under Section 68 of the Income Tax Act, 1961.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the amount of Rs.24,00,000/- does not pertain to the appealable year as the same has been brought forward from the previous year and thus there is a confusion due to re-grouping of it. The Ld. AR pointed out page no.9 of the Paper Book wherein the earlier year's Balance Sheet has been shown wherein notes 4 the income related to "others" is that of Rs.24,00,000/-. The Ld. AR further pointed out page no.26 of the Balance Sheet of the current Assessment Year and the earlier Financial Year's details were quieted as nil. Therefore, the Ld. AR submitted that the issue may be set aside to the file of the Assessing Officer as the re-grouping was not properly done and was not pointed out at the time of assessment proceedings

6. The Ld. DR submitted that the contentions of the Ld. AR appear to be correct and the matter may be set aside to the file of the Assessing Officer.

7. I have heard the Ld. DR and perused all the relevant material available on record. From the earlier Assessment Year as well as from the present Assessment Year's Balance Sheet it can be seen that the addition made in the present Assessment Year under Section 68 related to unsecured loan pertains to the earlier Assessment Year and the same needs verification. Therefore, we remand back this issue for verification and adjudication to the file of the Assessing Officer and decide

the same as per the merit of the case and law. Needless to say the assessee be given opportunity of hearing by following principles of natural justice. Appeal of the assessee is therefore partly allowed for statistical purposes.

8. In the result, appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open Court on this 16th day of November, 2022.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 16th day of November, 2022

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

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad