

आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
Dr ARJUN LAL SAINI, ACCOUNTANT MEMBER

आ.अ.सं./ITA No.126/SRT/2020 (AY 2016-17)

(Hearing in Virtual Court)

Deputy Commissioner of Income-tax, Circle-1(1)(2), Room No.114, 1 st Floor, Aaykar Bhavan, Majura Gate, Surat-395001	Vs	Merrygold Gems Pvt. Ltd., U-20, Jolly Square, Ram Chowk, Ghod Dod Road, Surat-395007 PAN No. AAICM 7912 L
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Prakash G Jhunjhunwala, C.A
राजस्व की ओर से /Revenue by	Shri H.P. Meena CIT-DR/ Sh Ashok B. Koli, CIT-DR
सुनवाई की तारीख/Date of hearing	22.11.2022
उद्घोषणा की तारीख/Date of pronouncement	11.01.2023

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by Revenue is directed against the order of Id. Commissioner of Income-tax (Appeals)-1 Surat [for short to as “Ld. CIT(A)”] dated 10.02.2020 for the assessment year 2016-17, which in turn arises out of assessment order passed by Assessing Officer under section 143(3) of Income Tax Act, 1961 (hereinafter referred to as ‘the Act’ for the sake of brevity) on 30.12.2018. The Revenue has raised the following grounds of appeal:-

“1. Whether on the facts and circumstances of the case and in law, the ld. CIT(A) is justified in deleting the addition of Rs. 11,57,00,000/- made by assessing officer on account of

unexplained cash credit u/s 68 of the Act as the assessee has failed to prove the bona fide of the transactions in terms of identity, creditworthiness and genuineness of such transaction?

2. The appellant craves leave to add, alter, amend and/or withdraw any ground(s) of appeal either before or during the course of hearing of the appeal.

3. It is therefore, prayed that the order of the Ld. CIT(A) may be set aside and that of Assessing Officer may be restored to the above extent.”

2. Brief facts of the case are that assessee is a company and engaged in the business of trading of rough and polished diamonds. The assessee filed its return of income for assessment year 2016-17 on 13.02.16 declaring income of Rs.56,54,590/-. The case of assessee was selected for scrutiny. From the perusal of audit report, in Form 3CD, the Assessing Officer noted that assessee has shown deposit of Rs.11.57 crores and majority of said deposits were squared off during the year. From the details in the audit report, the Assessing Officer noted that assessee has shown such deposits from thirteen persons, details of which were scanned in **para-6.1** of assessment order. The Assessing Officer asked the assessee to substantiate the genuineness of such deposits and to file confirmation, income-tax return, financial statement of the lenders/ depositors, bank statement of the lenders showing the payments to assessee and affidavits of

lenders. The assessee filed its reply dated 22.06.2018. In the reply, the assessee stated that they have accepted advances from various parties and repaid the same in the normal course of assessee's business. All the details of such deposits were mentioned in tax audit report in point No.31(1) & point No.31(b) in compliance with disclosure requirement of Section 269SS and 269ST of the Act. The part of assessee's reply was extracted by assessing officer in **para-8.5** of assessment order. The Assessing Officer further noted that assessee claimed that assessee has accepted advance against the sales of goods. Further in other next statement, the assessee stated that advances were received from making capital requirements of assessee's funds. The Assessing Officer was of the view that such funds are in the nature of unsecured loan, so the claim of advances of funds were not accepted. On the contention of assessee that they have produced the vouchers of such advances for delivery of goods and the advances were repaid because sale was not realised. The Assessing Officer concluded that such contention confused the nature of money received by assessee as it is shown in Form 3CD as unsecured loan.

3. The Assessing Officer deputed Ward Inspector for verification of such parties at their respective given addresses. The Ward Inspector furnished his report dated 29.11.2018. The Assessing Officer recorded party-wise report of Ward Inspector in **para-8.1** of the assessment order. The Assessing Officer recorded that in most of the cases, either the office of party, was closed or sign board of such company of entity was found or such parties were not available at the time of visiting of Ward Inspector. Thus the Assessing Officer doubted the identity of such lenders / deposits. On the creditworthiness of parties / lenders, the Assessing Officer prepared a summary of return of income as per the income tax return of party and the amount outstanding against their name in the account of assessee as recorded in **para-9.2** of assessment order. On the basis of such details, the Assessing Officer recorded that in net profit of lenders is very meagre despite having large revenue. Further gross profit ratio of all these lenders / depositors are abnormal low. The lenders were virtually operating fund any fixed asset. Thus, the Assessing Officer doubted the creditworthiness of depositors. On genuineness of such transaction, the Assessing Officer noted

that most of the creditors were having meagre income and have weak financial credentials and existing accepted to secured loan to the assessee. Thus, the genuineness of such transactions were also doubted by the Assessing Officer.

4. The Assessing Officer further noted that in reply to the show cause notice dated 26.11.2018 and 21.12.2016, the assessee contended that they have furnished the proof of identity i.e. name, address, PAN, CIN muster data, bank statement, ITR, audited balance, all the parties replied to notice under section 133(6) and their notarized affidavits were also filed. All such evidences were not accepted by Assessing Officer by taking view the assessee failed to produce the party before him despite directing specifically. Thus, the identity of such parties were not proved. The assessee has not explained the source of such funds. On the contention of assessee that amount was returned within a short period and therefore the transaction would not fall within the purview of section 68 of the Act. Such contention of assessee was also not accepted by Assessing Officer by taking view that assessee has sufficient time to produce the party and all the parties are bogus as the assessee could not produce them before the

Assessing Officer. The Assessing Officer by referring certain case law in the body of assessment order held that assessee failed to discharge the onus on the parameters of three tests of Section 68 of the Act. Thus, the said depositors were treated as unsecured / loan / unexplained cash credit and added under section 68 of the Act.

5. On appeal before 1d CIT(A), the assessee filed detailed written submission. The submission of assessee is recorded in **para-6** at pages 15 to 44 of the order of Ld. CIT(A). The assessee in sum and substance submitted that assessee is a company engaged in the business of trading in rough and polished diamonds. The case of assessee was selected for scrutiny. During assessment proceedings, the assessee furnished several documentary evidence to prove the identity, creditworthiness and genuineness of such transactions. The assessee has discharged its onus on furnishing name, address, PAN, CIN master data, confirmation of accounts and bank statement, acknowledgement of ITR of all the parties. All the parties furnished their reply and notarized affidavits in response to notice under section 133(6) of the Act. The assessee submitted that major funds pertain to advance

received from customers against the supplies and since the sales did not materialize, the funds were refunded back to the respective customers. The assessee requested the Assessing Officer to provide the alleged piece of material and statements which is likely to be used against the assessee but no such material or piece of contrary evidence was provided to the assessee. The Assessing Officer relied only on the report of Ward Inspector who was unable to serve the notice under section 133(6) of the Act. The Assessing Officer ought to have considered the relevant replies, notarized affidavits and exhaustive documentary evidences. The Assessing Officer hurriedly rejected the assessee's submission, without pointing out any defect in such documentary evidence produced on record and made huge addition of Rs.11.57 crores under section 68 of the Act. The assessee specifically submitted that advances received by assessee were repaid during the year to all thirteen parties. Thus, the addition is erroneous and unjustified. The entire advance / loans received by the assessee are in normal course of assessee's business trading in diamond and are absolutely genuine and *bona fide* transactions and huge addition made on far-fetched and

devoid of merits. The assessee furnished the names, addresses, certificate of importer / exporter, VAT registration certificate, CST registration certificate, rent agreement, PAN, CIN master data and the reply of notice issued under section 133(6) of the Act. Thus, the assessee proved its identity. To prove the creditworthiness and genuineness of such transactions, the assessee filed confirmation of account, assessee's bank statement showing the receipt of funds during the financial year and repayment in the year itself, income tax acknowledgement of depositors, bank statement of depositors, audited balance-sheet and notarised affidavits, confirmation of such transactions. The assessee furnished similar evidences with respect to all the parties. And reiterated that they have thoroughly discharged their onus to prove all the three ingredients i.e., identity, creditworthiness of lenders/ depositors and genuineness of such transactions. The entire advances / loans were received through account payee cheques / RTGS the sources in the bank statement were not on account of cash deposits.

6. The assessee reiterated that once the advance received against the supply of diamond and sale was not materialized

the advance / deposits were refunded back to the respective parties in a routine business transaction, which cannot be treated as unexplained cash credit. Even in case of short term borrowing received to meet the urgent requirement of business, cannot be treated unexplained cash credit. There is no contrary evidence to disprove such transaction. On the adverse report of Ward Inspector, the assessee submitted that in the report of Ward Inspector, on fact is confirmed that address of all such parties were found to be corrected. Thus, it was uncontroverted fact that the entities are existing at their given addresses and inquiries were made by Ward Inspector from the watchmen and not from office bears of society, where the office of taxpayers are situated. The assessee further stated that the allegation in the assessment order that their companies have no business relation with the assessee-company is totally incorrect for the reasons that assessee has received advance for supplying of goods / diamond, which was not materialized. Therefore, entire advances were immediately returned back but none of the parties were identified as hawala party or suspicious party involved in providing accommodation entries. The assessee

reiterated that loans / advances received was returned back immediately, within a short span of period, which cannot be a case of accommodation entry, being a pure business transaction and deeming provision of Section 68 would not apply.

7. The Ld. CIT(A) after considering the contents of the assessment order and the submission of assessee directed the Assessing Officer to provide the Ward Inspector's report to assessee. The said report of Ward Inspector was provided to assessee. The assessee filed their objection / reply to the report of Ward Inspector. The assessee was also asked to file reply in respect of notice under section 133(6) of the Act. The copies of all such replies were again filed on record. On consideration of such material, the Ld. CIT(A) noted that twelve lenders, out of thirteen lenders are engaged in business, so naturally they are required registration with the relevant department. The assessee was directed to produce such registration of their trade or business. In compliance of order of Ld. CIT(A), the assessee filed Import-Export Code certificate, VAT/GST registration certificate, CIN master data etc. The assessee also filed lease agreements & ownership

and SMC Vera Bill. The Ld. CIT(A) after considering the report of Inspector, scanned it at pages 28 to 31 of his order. The Ld. CIT(A) on considering the report of Inspector noted that out of thirteen lenders, local inquiries were made in respect of ten only, in respect of three lenders, no conclusion were drawn. There is nothing adverse against such three lenders. In case of ten lenders, the report of Ward Inspector cannot be at all adverse. The Ld. CIT(A) discussed about each and every lender about their nature of business, gross revenue and return of income; one of the affidavit of lender is also scanned at pages 38-40 in the order of Ld. CIT(A). The details mentioned in the affidavit of lender was cross-check by Ld. CIT(A) with bank account which were found in order. The Ld. CIT(A) after considering the submission of assessee further noted that all the advances were repaid by assessee within the same financial year i.e., most of the case within 30 days. The repayment was verified from the ledger account and the bank statement. The Ld. CIT(A) noted that in repayment of loan, no defect or fault was found by Assessing Officer, which itself constitute a good evidence regarding genuineness of

loan / advance, which is proved the commercial logic and common knowledge has been recognized by law.

8. The Ld. CIT(A) relied on the decision of Hon'ble jurisdictional High Court in the case of Ayachi Chandrashekhar Narsangji in TA No.992 of 2013 dated 02.12.2013, wherein it was held that when loan amount has been repaid by the assessee in the immediately next year and the Department has accepted the repayment of such loan without proving it, no addition can under section 68 can be made. The Ld. CIT(A) also followed the order of Tribunal in the case of Kalubhai A. Dhamelia in ITA No.88/SRT/2018 dated 18.09.2018, wherein it was also held that repayment of loan / advance constitute evidence regarding genuineness of the impugned loan or advance. On relying such decision, the Ld. CIT(A) held that such binding decision are squarely applicable to the facts of the present case. The Ld. CIT(A) also examined the case from another angle and noted that one of the lender has shown gross receipt up to Rs.506.60 crores and subjected to tax audit report with individual and two more lenders, have gross receipt of Rs.500 crores and above another two lenders have turnover of more than Rs.100 crores; four lenders have

their turnover of Rs.10 crores and further two lenders have their turnover of Rs.5.00 crores respectively. All the lenders filed their regular return of income, closing stock of substantial amounts, they have incurred expenses on personnel (employee's salary & benefits) and administrative expenses. In some cases, on examination of bank account, statement shows that they contain large number of transactions like any business accounts. The Ld. CIT(A) after referring various other case law of Hon'ble jurisdictional High Court in the case of CIT vs. Ranchhod Jivabhai Nakhava [2012] 21 taxmann.com 159 (Guj.)/ [2012] 208 Taxman 35 (Guj.)[20-03-2012], wherein it was held that where lenders of assessee are income-tax payee, whose PANs have been disclosed, Assessing Officer cannot ask the assessee to prove the genuineness of such transaction without first verifying such fact from income tax returns of lenders. It was also held that Hon'ble jurisdictional High Court in the case of DCIT vs. Rohini Builders [2003] 127 Taxman 523 Guj.)/[2002] 256 ITR 230 (Guj.)/[2003] 182 CTR 373 (Guj.) [19-03-2001] held that when the assessee established identity of creditors by giving their complete address, GIR numbers / PAN as well as

confirmation along with copy of assessment order and discharged its onus. On the aforesaid observations, the Ld. CIT(A) directed to delete the entire addition made under Section 68 of the Act. Aggrieved by the order of Ld. CIT(A) the Revenue has filed present appeal before the Tribunal.

9. We have heard the ld Commissioner of Income-tax Departmental Representative (Ld. oCIT-DR) for the revenue and Ld. Authorized Representative (Ld.AR) for the assessee and have gone through the orders of the lower authorities carefully. The Ld. CIT-DR for the Revenue submits that during the assessment, the Assessing Officer noted that assessee has received deposits / unsecured loan of Rs.11.57crores from thirteen parties and in most of the case, the amount was squared up in the same financial year. The Assessing Officer asked the assessee to establish the identity, creditworthiness and genuineness of such advances / loans. In order to verify the identity of the parties, the Assessing Officer deputed Ward Inspector for serving notice under section 133(6); as per report submitted by Ward Inspector, in most of the cases, the addresses were found closed from so many years, in a few cases the premises were occupied by

third-party and no parties were found operating in the given business address. The assessee was asked to produce such parties but assessee failed to produce the parties, hence, the identify of depositor could not be proved. So far as creditworthiness of such lenders are concerned, they have having very meagre income. On the genuineness of such transactions, the Assessing Officer has recorded that the parties were having very meagre income and no capacity to give advance of such amount. Thus, genuineness of transaction was also not proved by assessee. The Assessing Officer thus made addition under section 68 of the Act. The assessee failed to discharge its onus during the assessment, however, the CIT(A), while giving relief to the assessee failed to appreciate that on physical inquiry made by Ward Inspector, none parties were found at their given addresses. So the Ld. CIT(A) failed to appreciate that identity of the parties were not proved, further none of the party having creditworthiness to make such payments. The assessee received unsecured loan without any collateral security or formal agreement and no interest was charged. The Ld. CIT(A) failed to appreciate that no reasonable explanation regarding

creditworthiness of such parties were made by the assessee.

The Ld. CIT-DR for the Revenue prayed to reference finding of Ld. CIT(A) and to restore the addition made by the Assessing Officer. The Ld. CIT-DR for the Revenue submits that statement of fact filed by Assessing Officer may also be taken into consideration.

10. On the other hand, the ld. AR for the assessee supported the order of Ld. CIT(A) and submits that during the assessment, the assessee furnished complete address of the parties, along with documents required by Assessing Officer. The assessee received advance from all such parties for supplied of goods / diamond, supply could not be materialized and the amount was returned / refunded within a very short period of time. The ld. AR for the assessee submits that in few cases, the advances were refunded within one or two days. There is no allegation of Assessing Officer of any accommodation entry. The Assessing Officer merely doubted on the basis of report of Ward Inspector which is not worthy of credit. The assessee has filed numerous evidence to prove the identity of depositors / lender and their creditworthiness and genuineness of such transactions. The Ld. AR for the

assessee invited our attention on page-1 of paper book, wherein he has prepared the summary of all the payment received and return back, while referring such details, it was shown to us that in respect of Sr. No.1-3 and 13 depositors / lenders, the amounts were repaid / refunded with one day, in respect of lender / depositor No. 3 & 4, the amounts were paid within a week. So far as other lenders, from Sr.No.6 to 12 are concerned, the amounts were paid within a week or in a short period which is not more than three months.

11. The Ld. AR for the assessee submits that repayment of such advances are not doubted by Assessing Officer. There is no allegation of Assessing Officer that any cash payments were received or paid to squared up the said advances. The Ld. AR for the assessee submits that he has already filed all the details of lenders consisting of address, PAN, CIN master data, confirmation of account, assessee's bank statement, bank statement of lenders, ITR of lenders, bank balance of lenders and Notarized affidavits of lenders. Almost similar documents are filed with regard to all the depositors / lenders. The Assessing Officer has not commented on such documentary evidence, rather doubted the identity and

capacity of depositors. The Ld. AR for the assessee submits that Hon'ble jurisdictional High Court in the case of Ayachi Chandrashekhhar Narsangji (2014) 42 taxmann.com 251(Gujarat) held that when the department has accepted repayment of loan in subsequent year, no addition was to be made in the current year on account of cash credit. The Ld. AR for the assessee submits that this case is better footing than fact in the case of Ayachi Chandrashekhhar Narsangji (supra). In the present case, the assessee refunded the amount to four lenders / depositors within one day, such repayment is nowhere doubted. Similarly, other repayments were also not doubted.

12. The Ld. AR for the assessee further submits that if the Assessing Officer was not convinced about the creditworthy of the lender / depositors, the addition was to be made in the hands of depositors / lenders as their complete details with PAN (s) were furnished and no such exercise was made by the Assessing Officer. The Ld. AR for the assessee further submits that once the relevant documents to prove the genuineness of such transactions are filed no addition is to

be made against the assessee. To support such submission,

Ld. AR for the assessee relied on the following case law:

- Dy. CIT vs. Rohini Builders 256 ITR 360 (Guj.) [SLP rejected by Hon'ble Supreme Court in 254itr 275 (St)]
- CIT vs. Ranchhod Jivabhai Nakhava (2012) 208 Taxman 35 (Guj.)
- CIT vs. Jai Kumar Bakliwal (2014) 366itr 217 (Raj.)
- CIT vs. Avant Grade Carpets Ltd. (2015) 230 Taxman 165 (All.)

13. The Ld. AR for the assessee further submits that once payment of loan is accepted as genuine than the addition made under section 68 cannot be sustained. To support such submission, Ld. AR for the assessee relied upon following case law:

- ❖ CIT vs. Ayachi Chandrashekhar Narsangji 42 taxmann.com 251(Guj.)
- ❖ CIT vs. Mahavir Crimpers 95 taxmann.com 323 (Guj.)
- ❖ CIT vs. Karaj Singh 15 taxmann.com 70 (Punj &Har)

14. We have considered the rival submissions made by both the parties and have also gone through the orders of lower authorities carefully. The Assessing Officer made addition under section 68 of Rs. 11.57 Crore by taking view the assessee failed to produce the party/ creditors before him despite directing specifically and the identity of such parties were not proved. As recorded above before Id CIT(A), the assessee filed detailed written submissions. The Id CIT(A) after considering the contents of assessment order and the

submissions of the assessee noted that noted that twelve lenders, out of thirteen lenders are engaged in business, so they are required registration with the relevant department. The Id CIT(A) directed assessee to produce their registration of trade or business. The assessee filed copies of Import-Export Code certificate, VAT/GST registration certificate, CIN master data etc. The assessee also filed lease agreements & ownership and SMC Vera Bill. The Ld. CIT(A) also considered the report of Inspector, and find that out of thirteen lenders, local inquiries were made in respect of ten only, in respect of three lenders, no conclusion were drawn. So there is nothing adverse against such three lenders. In cases of ten lenders, the report of Ward Inspector cannot be considered as adverse. The Ld. CIT(A) discussed about each and every lender about their nature of business, gross revenue and return of income. And the affidavit of one of the lender is scanned in the impugned order. The details mentioned in the affidavit of lender was cross-check by Ld. CIT(A) with bank account which were found in order.

15. We find that the Ld. CIT(A) after considering the submission of assessee further noted that all the advances were repaid

by assessee within the same financial year i.e., most of the case within 30 days. The repayment was verified from the ledger account and the bank statement. The Id CIT(A) on relying on the decision of Jurisdictional High Court in Ayachi Chandrashekhar Narsangji (supra), wherein it was held that when loan amount has been repaid by the assessee in the immediately next year and the Department has accepted the repayment of such loan without proving it, no addition can under section 68 can be made, deleted the entire additions. During the hearing, the Id AR for the assessee vehemently argued that the assessee received the said amount during the course of its business activities and the amount was return either within one or two days or in a span of very short period, for which the provisions of section 68 cannot be invoked. We find the Id AR for the assessee filed following summary of impugned deposits and refunds;

Sr. No.	Details of payers	Details of trade advance received		Details of trade advance repaid		Repayment within
		Date of receipt	Amount received	Date of payment	Amount Repaid	
1.	M/s Anushul Gems Pvt. Ltd.	20/08/2015	Rs. 31,00,000/-	21/08/2015	Rs. 31,00,000	1 day
2.	M/s Manhar Impex Pvt. Ltd.	07/07/2015 13/07/2015	Rs. 5,00,000/- Rs. 73,00,000/-	08/07/2015 14/07/2015	Rs. 5,00,000/- Rs. 73,00,000/-	1 day
3.	M/s Uttam Gems Pvt. Ltd.	07/07/2015	Rs. 50,00,000/-	08/07/2015	Rs. 50,00,000/-	1 day
4.	M/s Look At Me Retails Pvt. Ltd.	04/12/2015	Rs. 2,10,00,000/-	07/12/2015 10/12/2015	Rs. 21,34,000/- Rs. 1,88,66,000/-	3-6 days
5.	M/s Veena Gems	18/06/2015	Rs. 5,00,000/-	22/06/2015	Rs. 5,00,000/-	4 days

6.	M/s Royal Refinery Pvt. Ptd.	01/09/2015 03/09/2015	Rs. 50,00,000/- Rs. 1,40,00,000/-	07/09/2015 08/09/2015 30/09/2015	Rs. 10,00,000/- Rs. 50,00,000/- Rs. 1,30,00,000/-	6-27 days
7.	M/s Rama Exports	07/05/2015	Rs. 75,00,000/-	08/09/2015	Rs. 75,00,000/-	124 days
8.	M/s Kaushal Diamonds	07/05/2015	Rs. 15,00,000/-	15/09/2015	Rs. 15,00,000/-	131 days
9.	M/s Kumar Exports	07/05/2015 13/05/2015 14/05/2015	Rs. 63,25,000/- Rs. 30,00,000/- Rs. 28,00,000/-	15/09/2015 1/10/2015 1/10/2015	Rs. 30,00,000/- Rs. 83,25,000/- Rs. 8,00,000/-	131-141 days
10.	M/s Piyush Exports	08/05/2015 15/05/2015 19/05/2015 25/05/2015	Rs. 50,00,000/- Rs. 28,00,000/- Rs. 20,00,000/- Rs. 8,00,000/-	01/10/2015	Rs. 1,06,00,000/-	146 days
11.	M/s Jai Shree Exports	19/05/2015	Rs. 27,00,000/-	1/10/2015	Rs. 27,00,000/-	135 days
12.	Rajen Vasant Dhruv	29/12/2015	Rs. 2,00,00,000/-	13/05/2016 16/05/2016	Rs. 1,00,00,000/- Rs. 1,00,00,000/-	138 days
13.	M/s Osiaji Exports	22/03/2016	Rs. 49,54,500/-	22/03/2016	Rs. 49,54,500/-	1 day
	Total		Rs. 11,57,79,500/-		Rs. 11,57,79,500/-	

16. A bare perusal of the aforesaid details makes it clear that the assessee has refunded the entire deposits either within in a day or in a week in respect of seven transactions. It was refunded in a maximum period of five months in respect of six transactions. Thus, no amount was left at the end of financial year. It is also matter or record that the repayment is not doubted by the assessing officer. The Hon'ble Jurisdictional High Court in CIT Vs Ayachi Chandrashekhar Narsangji (2014) 42 taxmann.com 251(Gujrat) held that where department has accepted repayment of loan in subsequent financial year, no addition was to be made in the current year on account of cash loan.

17. Further, in case of CIT Vs Ranchod Jivabhai Nakhava (2012) 21 taxmann.com 159 (Gujarat), the Hon'ble jurisdictional high court held that where the lenders of the assessee are

income tax assessee whose PAN have been disclosed, the assessing officer cannot not ask assessee to further prove genuineness of the transaction without first verifying such facts from income tax returns of lenders. We also find that the assessee furnished all such details of the lenders/ depositors. There is no allegation of assessing officer that any of such lenders/ creditors are part of syndicate of accommodation entry provider. There is no evidence that credit/ advance in the books of assessee was result of some circular transactions. We find that before granting relief to the assessee, the ld CIT(A) cross checked all such details, including the proof of repayment.

18. In view of the above discussion, we do not find any infirmity or illegality in the order of ld CIT(A), which we affirm with our additional observation.
19. In the result, the grounds of appeal raised by the revenue are dismissed.
20. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 11/01/2023.

Sd/- (Dr ARJUN LAL SAINI) [लेखा सदस्य/ACCOUNTANT MEMBER]	Sd/ (PAWAN SINGH) [न्यायिक सदस्य JUDICIAL MEMBER]
Surat, Dated: 11/01/2023	

Dkp. Out Sourcing Sr.P.S

Copy to:

1. Appellant-
2. Respondent-
3. CIT(A)-
4. CIT
5. DR
6. Guard File

// True Copy //

By order

Sr.P.S./Assistant Registrar, ITAT, Surat