

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT

[ CONDUCTED THROUGH VIRTUAL COURT ]

**Before: Shri Waseem Ahmed, Accountant Member  
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No. 143/Rjt/2018  
Assessment Year 2013-14**

M/s. Babji Oil Mill Pvt. Ltd., 8-Am, National Highway Road, Nr. Krishna Petrol Pump, Survey No. 84, Ranekpar, Village, Post Dhuva, Tal. Wankaner PAN: AAECB3134B (Appellant)	Vs	Dy. CIT, Morbi Circle, Morbi (Respondent)
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**Assessee by: Written Submission**  
**Revenue by: Shri Shramdeep Sinha, Sr. D.R.**

Date of hearing : 08-02-2023  
Date of pronouncement : 15-02-2023

**आदेश/ORDER**

**PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-**

This assessee's appeal for A.Y. 2013-14, arises from order of the CIT(A)-3, Rajkot dated 16-02-2018, in proceedings under section 143(3) of the Income Tax Act, 1961; in short "the Act".

2. The assessee has taken the following grounds of appeal:

*“1. The Ld. CIT(A) has erred in law and facts confirming addition of an amount of Rs. 3,40,57,900/-. The addition needs deletion.*

*2. The Ld. CIT(A) has erred in law and facts confirming addition of an amount of Rs. 22,70,000/- treating the same as unexplained cash credit. The addition needs deletion.*

*3. The Ld. CIT(A) has erred in law and facts confirming addition of an amount of Rs. 3,17,87,900/- treating the same as unexplained 7 bogus purchase. The addition needs deletion.*

*4. Taking into consideration the legal, statutory, factual, accounting and administrative aspects, no addition amounting to Rs. 22,70,000/- and Rs. 3,17,87,900/- ought to have been confirmed. The addition needs deletion.*

*5. Without prejudice, the assessment made is bad in law and deserves annulment.*

*6. Without prejudice, no adequate, sufficient and reasonable opportunity has been provided at the time of assessment stage. The assessment needs annulment.*

*7. Without prejudice, no adequate, sufficient and reasonable opportunity has been provided at the time of appellate stage. The assessment needs annulment.*

*8. The appellant craves leave to add/alter/amend and/or substitute any or all ground of appeal before the actual hearing takes place.”*

3. The brief facts of the case are that the assessee filed return of income declaring income of ₹ 18,46,840/-. The AO passed the assessment order making total addition of ₹ 3,40,57,900/- comprising of: (a) ₹ 22,70,000/- by treating the deposit credited as unexplained cash credit under section 68 of the Act and (b) another addition of ₹ 3,17,87,900/- on the ground that the same pertains to unexplained/bogus purchases.

4. The assessee filed appeal before Ld. CIT(Appeals), but none appeared before the Ld. CIT(Appeals) in the appellate proceedings. Accordingly, Ld.

CIT(Appeals), on the basis of material on record and on the basis of written submissions filed by the authorised representative of the assessee, confirmed the additions made by the AO. As regards the addition of ₹ 2,270,000/- under section 68 of the act, Ld. CIT(Appeals) confirmed the addition on the ground that in the appellate proceedings, the assessee has furnished no evidence to establish the identity, creditworthiness and genuineness of the transaction. With respect to the disallowance of unexplained purchases of ₹ 3,17,87,990/-, Ld. CIT(Appeals) observed that the assessee could not provide any address of the aforesaid purchase party and the said purchases remained unverified. Therefore, since even in the appellate stage, the assessee is not in a position to substantiate the veracity of these purchases, the addition on account of unverifiable purchases was confirmed by Ld. CIT(Appeals).

5. Before us, the counsel for the assessee submitted that in the proceedings before Ld. CIT(Appeals), the assessee could not cause appearance and present its case on merits. The counsel for the assessee submitted that if given an opportunity, the assessee is in a position to suitably demonstrate the genuineness of the deposits which have been confirmed under section 68 of the Act and also the genuineness of the purchases, which have been added to the income of the assessee as unverified purchases. In response, DR relied upon the observations made by Ld. CIT(Appeals) in the appellate order.

6. We have heard the rival contentions and perused the material on record. Before us, the counsel for the assessee submitted that the assessee

could not appear before the Id. CIT(A) and if given an opportunity, he would adequately demonstrate the genuineness of transactions in respect of which the additions have been made. Accordingly, considering the quantum of additions made, in the interest of justice, we are restoring the file to the Ld. CIT(Appeals) so as to enable the assessee to give the necessary supporting/evidence with respect to the aforesaid additions.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 15-02-2023

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 15/02/2023**

**Sd/-**  
**(SIDHHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Rajkot