

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B" : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.751/PUN./2022  
Assessment Year 2013-2014

The Income Tax Officer, Ward Kudal, 940, MIDC Corner, Gawaldev Wadi, Vengurla Road, Kudal Dist. Sindhudurg – 416 550 Maharashtra.	vs.	Shri Rajendra Dewoo Naik, Kinale, Kavthani, Tal – Sawantwadi Dist. Sindhudurg. PIN – 416 514 Maharashtra.
(Appellant)		(Respondent)

For Revenue :	Shri Shashank Deogadkar
For Assessee :	Shri Satya Prakash Singh

Date of Hearing :	24.05.2023
Date of Pronouncement :	25.05.2023

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This Revenue's appeal for assessment year 2013-2014, arises against the National Faceless Appeal Centre [in short "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2022-23/1044643753(1), dated 12.08.2022, involving proceedings u/s. 143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The Revenue raise the following substantive grounds in the instant appeal :

- 1) *“The order of the Ld. CIT(A) is contrary to law and to the facts and circumstances of the case.*
- 2) *The Ld. CIT(A) has erred in deleting the addition on account of sundry creditors holding that the genuineness of the trade creditors does not appear to be in doubt.*
- 3) *The Ld. CIT(A) has grossly erred in ignoring the fact that in none of the cases in the remand report the AO has stated that he has examined the creditworthiness of the creditor.*
- 4) *The Ld. CIT(A) grossly erred in deleting the additions in respect of unsecured loans taken by the appellant considering them to be genuine.*
- 5) *For these and such other grounds as may be urged at the time of hearing, the Order of the Ld.CIT(A) may be reversed and that of the Assessing Officer be restored.*
- 6) *The appellant craves to add, amend, alter or delete any of the above ground of appeal during the course of appellate proceedings before the Hon’ble Tribunal.”*

3. It transpires during the course of hearing that the Revenue’s sole substantive ground in the instant appeal challenges correctness of the CIT(A)'s action reversing assessment findings adding unsecured loans and sundry creditors of Rs.97,46,168/- and Rs.1,90,15,648/-; respectively, as unexplained cash credits u/sec.68 of the Act. The NFAC’s findings to this effect read as under :

7. Second ground of appeal relates to addition of Rs.97,46,168/- in respect of unsecured loans taken by the appellant. In the assessment order the A.O. has observed that, "On perusal of the balance sheet for the year under consideration, it is seen that the assessee has shown unsecured loans to the tune of Rs. 97,46,168/-. The party present was required to furnish confirmation from the said creditors. In spite of various opportunities, the assessee could not produce the creditors, nor has any confirmation of the said loans been furnished till date. As such the genuineness of the said loans & creditworthiness of the creditors is not established. As such, I consider these unexplained loans as cash credits in the books of the assessee & add the sum of Rs. 97,46,168/- the same to the total income of the assessee for the year under consideration."

7.1 During the appellate proceedings in submission dated 16.11.2017, wherein the appellant explained that break-up of the loans amounting to Rs.97,46,168/- is as under:

Sr.No.	Particular	Amount[31/03/2013]
1	Deepak Govind Rane	Rs. 6,00,000/-
2	Deepak Dewoo Naik	Rs. 11,07,700/-
3	Amazing Recreation Pvt.Ltd.	Rs.10,73,000/-
4	Sindhudurg Realtors Pvt.Ltd.	Rs.41,11,983/-
5	Taushik Menon	Rs.50,68,885/-
	Total	Rs. 97,46,168/-

The appellant provided confirmations, bank statements and other documents in support of it's contentions. This was forwarded by the CIT(A)-2 to the A.O. for

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submission of remand report after due verification of the relevant material. The A.O. has examined and verified the details and the findings as arrived at in the remand report uploaded on 07/06/2022 are discussed below:

- A.O. has submitted that affidavit cum undertaking were submitted from Shri Deepak Govind Rane and Sindhudurga Realtors Pvt. Ltd. confirming the fact that they have given loans to the assessee Shri Rajendra Dewoo Naik. Shri Deepak Rane has advanced loan of Rs.6,00,000/- and Sindhudurga Realtors Pvt. Ltd. has advanced loan of Rs.41,11,983/- to the assessee.
- Shri Deepak Dewoo Naik has confirmed before the A.O. that he has taken the loans at times from his brother Shri Rajendra Naik, the appellant and the outstanding loan amount as on 31.03.2013 was at Rs. 11,07,700/-. In light of the same the said
- With respect to Amazing Recreation P. Ltd., the appellant submitted an account extract in the books of Amazing Recreation Pvt. Ltd. for the period 01.04.2011 to 31.03.2016. On verifying the same, A.O. noticed that the opening debit balance as on 01.04.2013 is at Rs.9,73,000/- whereas in the audited statements furnished by the appellant Shri Rajendra Naik for the period 01.04.2012 to 31.03.2013 i.e. relevant to A.Yr.2013-14 it was noticed that unsecured loan from Amazing Recreation Pvt. Ltd. is shown as Rs. 10,73,000/-. The appellant was unable to reconcile this difference of Rs. 1,00,000/- hence the A.O. in the remand report has stated that the amount needs to be added back to the total income. The appellant has relied on earlier submission in response to the remand report.
- With respect to the loan from Shri Tousik Menon, in remand proceedings, the appellant claimed that the transactions with the lender were strained hence he could not be able to produce any further detail. A.O. has observed that, "On perusal of the accounting statements of AY 2013-14, produced for verification it is noticed that the assessee was in transactions with him and in the schedules annexed with the balance sheet for AY 2013-14 the name appears twice, once in Liabilities side at schedule: 3 for 'Unsecured loans of Rs.97,46,168/-' for Rs.50,68,885/- and next time in Assets side at schedule: 9 for 'Loans and advance of Rs. 1,75,72,603/-' for Rs.48,38,490/-. Thus by following the accounting principles it is to mention that the assessee has taken loan of Rs.50,68,885/- from Shri Tousik Menon and at the same time has given advance of Rs.48,38,490/- to him. Now if at all the genuineness of the said loans & creditworthiness of Shri Tousik Menon was not established and the time of assessment proceedings, and which is not established even at this juncture, the difference amount of Rs.2,30,395/- needs to be added to the income of the assessee for the period under consideration." The appellant has relied on earlier submission in response to the remand report.



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Thus on basis of the findings given in the remand report after the verification of documents and evidences as given by the appellant, loans from Deepak Govind Rane, Sindhudurga Realtors Pvt. Ltd and Deepak Dewoo Naik are held to be fully explained. The loans from Amazing Recreation P. Ltd. to the extent of Rs. 1,00,000/- and from Tousik Menon to the extent of Rs.2,30,395/- remains unexplained. Accordingly, the addition on account of unsecured loans is sustained to the extent of Rs. 330,395/- and ground is treated as partly allowed.

8. The third ground of appeal relates to the addition of Rs.1,90,15,648/- on account of sundry creditors. The addition was made by the A.O. as the appellant could not furnish the confirmations from the creditors and the genuineness of the creditors was not established. The appellant has provided details of the amount of Rs. 1,90,15,648/-added back in the assessment proceedings. During the remand proceedings the A.O. has verified the details and evidences as submitted by the appellant and given the finding that after careful verification of case record, it is submitted that entire addition is not warranted and needs to be reconsidered. The finding of the A.O. is summarised as under:

	Item	Amount (Rs.)	Submissions and finding of A.O.
1	TDS Payable	13,483	The amount is not liable to be added back as unexplained credit
2	D.V.Kamat	1,00,000	Confirmation and address of the person has been produced by way of notarized affidavit . The cheque received from the lender is found to be credited in the bank account of the appellant
3	Bipin Shah & Associates	1,22,349	Audit Fees
4	Classic Investments Pvt. Ltd.	24,79,291	Memorandum of understanding filed
5	Leading Hotel Limited	17,50,125	Amount is reflected in the 26AS statement and in books of accounts of the appellant. Held to be a trade creditor
6	Atmaram Parshuram Prabhu	14,00,000	Amount received by RTGS in bank account and held to be genuine
7	Hemant Jagmohan Panchal	2,00,000	Registered agreements of sale



8	Hemalata Balwant Khanolkar	₹ 2,00,000	produced and amounts are related to the said transactions
9	Amit A. Bhosale & Gauri A. Bhosale	94,11,400	Confirmations produced from the all the persons
10	Rajesh Gul Advani	82,57,500	

Considering the remand report of the A.O. and findings therein the genuineness of the trade creditors does not appear to be in doubt and further as per provisions of section 41 the amounts can be added back only if a benefit is derived from the cessation or remission of the trading liability. Since that is not case here, the addition made is not warranted and A.O. is directed to delete the same. The ground of appeal is treated as allowed.

4. Suffice to say, it has come on record that the NFAC has followed the Assessing Officer's remand report dated 29.05.2019 itself that the impugned addition of Rs.2,87,61,816/- is not warranted since the latter authority had duly verified all the relevant facts in the remand proceedings. The Revenue is fair enough in submitting a copy of this clinching remand report before us. That being the case, we conclude in light of B. Jayalakshmi vs. ACIT [2018] 96 taxmann.com 486 (Mad.) and CIT vs. DM Purnesh [2020] 426 ITR 169 Kar.) that the Revenue could hardly be treated as an aggrieved party in case of a favourable remand report submitted before the CIT(A). We accordingly find no merit in the Revenue's above substantive grounds. The same stand rejected. Ordered accordingly.

5. This Revenue's appeal is dismissed in above terms.

Order pronounced in the open Court on 25.05.2023.

Sd/-  
[DR. DIPAK P. RIPOTE]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 25<sup>th</sup> May, 2023

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), NFAC, Delhi
4.	The CIT-1, Pune.
5.	D.R. ITAT, Pune "B" Bench, Pune
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,  
Pune.