

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

ITA No. 139/Srt/2020 (Assessment Year: 2011-12)

*(Physical hearing)*

I.T.O., Ward-3(3)(1), Surat.	Vs.	Arvinbhai Ratanbhai Mokani, D-260-261, Vittal Nagar Society, Varachha Road, Hira Baug, Surat-395006. <b>PAN No. AHFPM 2302 K</b>
Appellant/ assessee		Respondent/ revenue

Department represented by	Shri Ashok B Koli, (CIT-DR)
Assessee represented by	Shri Rasesh Shah, CA
Date of hearing	13/04/2023
Date of pronouncement	06/07/2023

**Order under Section 254(1) of Income Tax Act**

**PER: PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by the revenue is directed against the order of learned Commissioner of Income Tax (Appeals)-3, Surat (in short, the Id. CIT(A) dated 17/02/2020 for the Assessment year 2011-12. The revenue has raised following grounds of appeal:

- “1. Whether on facts and in law the Ld. CIT(A) was justified in deleting the addition of Rs. 10,00,000/- made by the AO on account of Unexplained cash deposit in HDFC Bank by accepting the submission of the assessee that the said cash deposit was covered by the addition of Rs. 11,29,000/-, without considering the fact that during the assessment proceedings as well as the remand proceedings, the assessee had failed to furnish with documentary evidences to prove the source of cash deposit of Rs. 10,00,000/- ?*
- 2. Whether on facts and in law the Ld. CIJ (A) was justified in deleting the addition of Rs. 2,73,91,415/- made by the AO on account of Time deposit made by the assessee in State Bank of Mysore by accepting the submission of the assessee that the source of same was out of the*

*sale proceeds of the plots, without considering the fact that during the assessment proceedings as well as the remand proceedings, the assessee had failed, to furnish with documentary evidences to show that amounts invested by him in Time Deposit was actually out of the amounts received from sale proceeds ?*

3. *Whether on facts and in law the Ld. CIT (A) was justified in deleting the addition of Rs. 1,49,80,000/- made by the AO on account of Time Deposit made by the assessee in HDFC Bank by accepting Submission of the assessee that the source of same was out of the sale proceeds of the plots, without considering the fact that during the assessment proceedings as well as the remand proceedings, the assessee had failed to furnish with documentary evidences to show that amounts invested by him in Time Deposit was actually out of the amounts received from sale proceeds ?*
4. *Whether on facts and in law the Ld. CIT (A) was justified in deleting the addition of Rs. 55,00,000/- out of the total addition made by the AO of Rs. 65,00,000/- on account unexplained advances given, by accepting the submission of the assessee that the advances were given out of the sale proceeds, without appreciating the fact that during the assessment proceedings as well as the remand proceedings, the assessee had failed to furnish with documentary evidences to show that the funds available in the bank for giving loans were actually out of the sale proceeds ?”*

2. Brief facts of the case are that the assessee is an individual, filed his return of income for the A.Y. 2011-12 on 31/03/2012 declaring income of Rs. 4,48,930/-. The case was selected for scrutiny. The assessment was completed under Section 144 of the Income Tax Act, 1961 (in short, the Act) on 28/03/2014. The Assessing Officer while passing the assessment order made following additions:

- (i) Addition on account of unexplained and undisclosed sale consideration received on sale of immovable property of Rs. 1,50,00,000/-
- (ii) Addition on account of unexplained cash deposits in savings bank account of Rs. 11,29,000/-.

- (iii) Addition on account of unexplained time deposits made in bank of Rs. 2,73,91,415/-
  - (iv) Addition on account of unexplained cash deposits in bank account of Rs. 10,00,000/-
  - (v) Addition on account of unexplained time deposits made with a bank of Rs. 1,49,80,000/-
  - (vi) Addition on account of unexplained advances given of Rs. 65,00,000/-.
3. The Assessing Officer made all the above additions by taking view that the assessee was served six show cause notices, however, despite service of notices, the assessee has not furnished any detail to substantiate various claims made in the return of income.
4. Aggrieved by the additions in the assessment order, the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed detailed written submissions on all the additions. On non-filing of various details, the assessee submitted that he was not keeping well from last few months and has suffered severe heart attack in the last week of February, 2014. The assessee was hospitalised under critical condition and undergone bypass surgery of heart. The assessee remained admitted in hospital from 26/02/2014 to 04/03/2014 and was advised complete bed rest and not to take any mental or physical strain for any work. Under such circumstances, the assessee was confined to bed and all his family members were busy in attending his health care, therefore, the required details could not be furnished during the assessment proceedings before the Assessing Officer. The Assessing

Officer made various additions which resulted into high pitched assessment with multi fold additions on the same source of income.

5. On the addition of Rs. 1.50 crores on account of unexplained and undisclosed sales consideration, the assessee explained that on the basis of AIR information, the Assessing Officer noted that the assessee sold non-agricultural land situated at Gavier village jointly with other persons at Rs. 10.00 crores, on which the assessee received Rs. 1.50 crore as his share on various dates. To verify the investment as well as sale consideration, the assessee was asked to furnish supporting details in show cause notice dated 14/03/2014. Due to ill health, the assessee could not furnish details and in absence of such details, the capital gains earned on such sale could not be verified. As per the Assessing Officer, the capital gain was not reflected in the return of income, thus the Assessing Officer made addition on account of entire sale proceed of Rs. 1.50 crores without granting deduction of indexed cost of the property. The assessee explained that he alongwith five other persons purchased non-agricultural land at village Gavier, thus having 1/6<sup>th</sup> share in the said land. The land was purchased in F.Y. 2005-06, relevant to A.Y. 2006-07. The assessee furnished details of Revenue survey number, plot number, area of land and the cost of acquisition aggregating of Rs. 4,73,066/-. The details of which is recorded in sub-para 3 of para 4 of order of Id. CIT(A). The assessee explained that all investments are duly

recorded in his books of account and the balance sheet as on 31/03/2006. Copy of return of income for A.Y. 2006-07 was also furnished. The assessee further submitted that in the assessment order, the Assessing Officer mentioned the date of acquisition as 25/04/2005. The assessee could not furnish such details due to his ill health and hospitalization. The assessee contended that he has eligible for indexed cost of acquisition, the Assessing Officer failed to give deduction of indexed cost of Rs. 7,47,196/-.

6. On the addition of Rs. 11,29,000/-, the assessee submitted that the Assessing Officer was having information about the cash deposit of Rs. 11,29,000/- in his savings bank account with HDFC bank. The assessee was asked to furnish the details during the assessment, the assessee could not furnish such details due to his hospitalization, thus the Assessing Officer made addition under Section 68 of the Act. The assessee further submitted that he is engaged in the business of yarn trading and was having bank account in HDFC bank, Varachha Road, Surat. The assessee made cash deposit on various dates in his bank account. The assessee furnished such details as per para 3.1 as recorded on page No. 5 of order of Id. CIT(A). The assessee submitted that the assessee has shown turnover of Rs. 27,19,043/-, the assessee was having sufficient inflow of funds to make necessary deposits in the

bank account. The Assessing Officer failed to consider the fact in right perspective and prayed for deleting the addition of Rs. 11,29,000/-.

7. On the additions of Rs.2.37 Crore, the assessee submitted that the assessing officer made this addition by taking view that the assessee made time deposits to that extent on various dates with bank of Mysore Varachha Road. In response to the show cause notice the assessee could not file required details as he was hospitalised. The assessee submitted that on receipt of sale consideration he deposited Rs. 90.00 Lacks in his saving bank account with State Bank of Mysore Varachha Road for short period, and on its maturity it was again deposited with same Bank for short period with same bank and it was rotated again. The assessee furnished the flow of investment and filed copies of time deposits. The same amount deposited initially was invested and reinvested again. The assessing officer failed to consider such facts and made addition of Rs. 2.37 Crore.
8. On the additions of Rs. 10.00 lacks, the assessee submitted that this addition is covered by the additions of Rs. 11.29 lacks. The assessing officer made double additions by making this separate addition. The assessee furnished the dates of deposits of Rs. 5.00 lacks each on 06.11.2010 and 08.11.2010, which is already included the addition of Rs. 11.29 lacks.

9. On the addition of Rs. 1.49 Crore, the assessee submitted that the assessing officer made this addition by taking view that the assessee made time deposits in HDFC Bank and in next para mentioned that time deposits in Bank of Baroda. The assessee submitted that the assessee opened Joint bank account with co-owners of the land and the sale proceed was collected in this bank account and it was distributed among the co-owners. The assessee further stated that the banker has not provided the required details and statement about the said joint account for the want of signature of all account holders. And that the assessee has already made request to the assessing officer to write to the bank to get the necessary bank statement. The assessee is not aware about the exact time deposit but he has duly disclosed interest earned of interest income of Rs. 2,98,000/- in his return of income. Form 26-AS was also furnished showing the TDS from the time deposits with Bank of Baroda. The assessing officer failed to appreciate the facts and made huge addition. The assessee initially deposited sale proceed in Bank of Baroda and thereafter transferred in State Bank of Mysore.
10. On the additions of Rs. 65.00 lacks, the assessee stated that the assessing officer made this addition on account of advances to various parties by treating the same as unexplained advances. The assessing officer wrongly made addition of Rs. 65.00 lacks, which was application of funds out of assessee's own funds. The sources of funds were from

the sale proceeds of land of Rs. 1.50 Crore. The assessing officer made addition of source as well as application of funds. The additions made by the assessing officer is erroneous and unjustified as there can be addition of either source or application. The assessee also furnished the details of persons to whom such advances were provided as recorded in sub-para-(2) on page No. 8 by Id CIT(A) in his order. The assessee further explained that out of the said total amount, the amount of Rs. 5.00 lacks each given to Bhikabhai Bharwad and Jayesh Bharwad, which was repaid by them on 14.03.3011. Both the entry is reflected in his bank statement itself. The assessing officer made addition without verifying such facts. Similarly, amount given to Samural Textile was given for temporary advance from the sale proceeds of land and there is no question for treating the same as unexplained. The assessee's son is partner in the Samural Textile. The amount credited to the bank account was clearly establishing the source of funds from where the funds were received by the assessee.

11. In addition to the above facts, the assessee further explained that details of receipt of sale proceeds of land in the following manner;

Amount received as per details in sale deed in Bank of Baroda	07.07.2010	3,000,000/-	
	12.07.2010	1,500,000/-	
	18.08.2010	1,500,000/-	
	01.09.2010	3,000,000/-	
	16.09.2010	1,500,000/-	
Total sale consideration received	02.10.2010	4,500,000/-	15,000,000/-

12. The assessee also furnished the chart of investment in fixed time deposits in Bank of Baroda in the following manner;

Particular	Date of term deposits	Amount Rs.000/-	
Amount invested in Short Term Time deposits with bank of Baroda out of sales proceeds	24.07.2010	4,480,000.00	
	28.08.2010	1,500,000.00	
	01.09.2010	3,000,000.00	
	17.09.2010	1,500,000.00	
	04.10.2010	4,500,000.00	14,980,000.00
Maturity of above time deposits with BOB	16.09.2010	3,000,000.00	
	16.09.2010	4,480,000.00	
	17.09.2010	1,500,000.00	
	24.09.2010	1,500,388.00	
	07.10.2010	4,500,000.00	14,980,388.00
Amount transferred from maturity of time deposits with BOB to State Bank of Mysore for investment in Time Deposit (See Annexure A) for details.	16.09.2010	9,000,000.00	
Amount transferred from maturity of time deposit to HDFC bank for advancing loan to M/s Samuria textiles	07.10.2010	4,500,000.00	

Details of time Deposit (FDR) of 90 Lacs (with State Bank of Mysore)

Particular	Date	Rs.	Rs.
AMT TRFD TO TIME DEPOSIT	15.09.10		
A/C NO. 0064066700589	000002		9,000,000.00
AMT TRFD TO TIME DEPOSIT	20.09.10		9,000,000.00
A/C NO. 0064066700589			
INTEREST EARNED ON T.D.	4/11/2010	51,041.00	
LESS:TDS		5,105.00	45,936.00
INTEREST EARNED ON T.D.	20/12/10	51,302.00	
LESS:TDS		5,131.00	46,171.00
MATURITY PROCEEDS FOR T.D.	30/12/10		9,092,107.00
AMT TRFD TO TIME DEPOSIT	31/12/10		9,000,000.00
A/C NO. 00640717836935			
INTEREST EARNED ON T.D.	31/03/11	170,639.00	
LESS:TDS		17,064.00	153,575.00

INTEREST EARNED ON T.D.	28/06/11	162,238.00	
LESS:TDS		16,505.00	145,733.00
TIME DEPOSIT BALANCE ASON 31/12/2011			9,299,308.00
INTEREST EARNED ON T.D	14/12/11	256,814.00	
LESS:TDS		25,682.00	21,132.00
FDR CLOSED AND MATURITY PROCEEDS DEPOSITED IN BANK	14/12/11		9,530,440.00

13. The assessee also filed application for admitting additional evidence which were furnished with submissions. The submissions of assessee was forwarded to Assessing Office for his remand report. The Assessing Officer furnished his remand report vide letter dated 03.07.2015. In the remand report, the Assessing Officer objected against the admission of additional evidence. No comments on the various evidences and on merit on various issues, were made. The Ld. CIT(A) considered the admissibility of additional (new) evidences and find that assessee has shown sufficient cause for non-appearance and not filing such evidence before the Assessing Office. The Ld. CIT(A) recorded that assessee submitted that during assessment, he suffered severe heart-attack in the month of February, 2014 and he had to undergone bypass surgery and was hospitalized from 26.02.2014 to 04.03.2014 and was advised complete bed-rest. Such facts were considered as reasonable cause by Ld. CIT(A) for non-submissions of such evidences and admitted such additional evidence for his consideration.

14. The Ld. CIT(A) on considering the contents of assessment order, submission of assessee and the evidences so furnished by assessee granted partial relief to the assessee. On the addition of Rs.1.50 crores, the Id CIT(A) held that assessee has sold different plots of lands and received sale consideration of Rs.1.50 crores, being his share along with co-owners. On the basis of evidence furnished by assessee, Id CIT(A) noted that assessee purchased these plots in financial year 2005-06 at the cost of Rs.4,73,066/- and was sold in financial year 2010-11 relevant to assessment year 2011-12, thus in fairness the assessee is entitled for indexed cost of which was worked out at Rs.7,47,196/- and allowed the balance amount of Rs.1.42 crores (Rs.1,50,00,000 – 7,47,196) as long term capital gain (LTCG).
15. On the other additions on account of Rs.2.73 crores and Rs.1.49 crores on account of unexplained investment, the Ld. CIT(A) on considering the submission of assessee and contents of assessment order recorded that Assessing officer made addition on the basis of CIB Information that assessee made time deposit of Rs.2.73 crores in his bank account in the State Bank of Mysore by taking view that assessee failed to explain the source of funds. The Ld. CIT(A) noted that assessee has explained utilization of sale proceeds for short term investment in bank as fixed deposit. Copies of bank statement showing transactions are filed. On considering such evidence, the Ld. CIT(A) found that initially

assessee received Rs.1.50 cores, out of which the assessee invested in short term FDR of Bank of Baroda to the tune of Rs.1.498 crore and the maturity proceed were received back in first week of October, 2010. Thereafter the assessee transferred Rs.90 lakhs to the State Bank of Mysore for investment in short term deposit. The assessee also transferred Rs.45 lakhs to another bank account with HDFC Bank. Thus, addition of Rs.1.49 crores is stand explained and deleted accordingly. For other addition of Rs.2.73 crores the Ld. CIT(A) recorded that from the chart submitted by assessee that it is clearly explained that maturity amount of Rs.90 lakhs FDR with Bank of Baroda was transferred to Bank of Mysore and it was rotated twice and assessee received maturity amount of Rs.92.92 lakhs and Rs.92.99 lakhs respectively. The Assessing Officer wrongly considered this investment and maturity as a separate investment and made addition of Rs.2,73,91,415/- (90,00,000 + 90,92,107 + 92,99,308). Thus it is clear mistake of Assessing Officer for considering the investment as a separate investment, though the original investment is only of Rs.90.00 lakhs. The Ld. CIT(A) held that the source of investment was clearly explained, the addition is a result of multiplication same figure and source of income and accordingly deleted the entire addition of Rs. 2.73 Crore as well.

16. On the addition of unexplained advance of Rs.65 lakhs, the Ld. CIT(A) held that Assessing Officer made addition by taking view that assessee

failed to provide details called for like PAN, address of parties, nature of transaction and confirmation etc. The Ld. CIT(A) recorded that on considering the submission of assessee it is noted that assessee has given advance of Rs.55.00 lakhs from his HDFC bank account to Samuria Textile, a partnership firm, in which his son is also a partner. The assessee has received Rs.1.50 crores on sale of assets, out of which Rs.90.00 lakhs was invested in time deposit. Out of the balance amount, the assessee has given advance by cheque to the said firm. The Ld. CIT(A) held that he is agreeing with the contention of assessee that either source or investment can be taxed or the application and the source of funds (land proceeds) is already taxed as per ground No1. (capital gains) therefore no reason for confirming the addition of advance of Rs.55.00 lakhs and deleted accordingly. So far as advance of Rs.5.00 lakhs each, given to Bhikhabhai S Bharwad and Jayesh B Bharwad, the Ld. CIT(A) noted that assessee could not provide satisfactory explanation of such advances. Therefore, addition of Rs.10 lakhs was confirmed thereby granted substantial relief to assessee.

17. On the addition of Rs.10.00 lakhs on account of cash deposit in bank the Ld. CIT(A) held that Assessing Officer also made addition of Rs.11.29 lakhs on account of bank deposit as unexplained cash credits, which has been confirmed by Ld. CIT(A). The Ld. CIT(A) held that addition of Rs.10.00 lakhs is a duplication of addition, which is covered

by addition of Rs.11.29 lakhs. Therefore, addition of Rs.10.00 lakhs was deleted.

18. Aggrieved by the order of Ld. CIT(A), the Revenue has filed present appeal before the Tribunal challenging the action of Ld. CIT(A) in deleting the addition of Rs.10.00 lakhs on account of deposit in HDFC bank, deleting the addition of Rs.2.73 crores and Rs.1.49 crores on account of time deposit in State Bank of Mysore and HDFC Bank respectively and in deleting the addition of Rs.55.00 lakhs on account of unexplained advances.
19. We have heard the submissions of Ld. Commissioner of Income-tax-Departmental Representative (Ld. CIT-DR) for the Revenue and the Ld. Authorized Representative (Ld.AR) for the assessee. On the addition of Rs.10.00 lakh, the Ld. CIT-DR for the revenue submits that during the assessment the assessee was given ample opportunity to explain the source of cash deposit. The assessee failed to furnish sufficient explanation about such cash deposit. During the remand proceeding, the assessee failed to submit and documentary evidence. Similarly, with regard to deleting the addition of time deposit of Rs.2.73 crores and Rs.1.49 crores with State Bank of Mysore and HDFC Bank, the Ld. CIT-DR for revenue submits that during assessment, the assessee failed to furnish source of time deposit, the Ld. CIT(A) deleted the addition by accepting the explanation before him. Similarly, for deleting the addition

of unexplained advances of Rs. 55.00 lakhs, the Ld. CIT-DR for revenue submits that assessee failed to submit complete details and evidences of the source of fund and confirmation of parties. The Ld. CIT(A) accepted the explanation of assessee about the source of Rs.55.00 lakhs which is not acceptable as the assessee during assessment failed to provide the availability of fund.

20. On the other hand, Ld. AR for the assessee submits that during the assessment, the assessee suffered heart attack and was hospitalized and ultimately gone through heart surgery in the month of February, March, 2014. The family members of assessee were taking care of assessee, which resulted in non-compliance of notices issued by Assessing Officer. However, before Ld. CIT(A) the assessee explained the source of investment in bank deposit, time deposit with HDFC bank, which were transferred to State Bank of Mysore. The assessee also prove the source of advances given to a firm where the son of assessee is a partner. The Ld.AR for the assessee submits before Ld.CIT(A) he has furnished exhausted written submission, with additional evidence, which was appreciated by Ld. CIT(A) and on appreciation of sufficient cause, the Ld. CIT(A) remanded the additional evidence to the Assessing Officer for his remand report. The Assessing Officer has not given his adverse remarks on the evidences rather only objected for admission of such additional evidence. No comments on the evidences

was made by assessing officer nor he examined such evidence. The AR for the assessee submits that he supported the order of Ld. CIT(A) on the grounds of appeal raised by Revenue.

21. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. Ground No.1 relates to deleting the addition of Rs.10.00 lakh in bank deposit. We find that Assessing Office made addition by taking view that no explanation of evidence was furnished by assessee against such cash deposit in bank. The Ld. CIT(A) deleted the addition by taking view that Assessing Officer made double addition, which includes addition of Rs.11.29 lakhs on account of cash deposit in HDFC bank, which has been upheld by him. The Ld. CIT(A) categorically held that the addition of Rs.10.00 lakhs is a duplication of addition which is covered by addition of Rs.11.29 lakhs. We find that the Id CIT(A) granted relief to the assessee on verification of facts and evidences. No contrary facts or evidence is brought to our notice to take the other view that addition of Rs.10 lakhs was not a part of addition of Rs.11.29 lakhs. Thus, we affirm the order of Ld. CIT(A). In the result, ground No.1 of the appeal is dismissed.

22. Ground No.2 & 3 relate to deleting addition of Rs.2.73 crores and Rs.1.49 crores. We find that Assessing Officer made additions by taking view that assessee has not filed any submission or explanation during

assessment. We find that before Ld. CIT(A) the assessee filed detailed written submission including the source of time deposit, received on account of sale of immovable property, initially time deposit was made in HDFC bank and later on the amount was transferred to State Bank of Mysore and it was reinvested / rotated twice. The Ld. CIT(A) on appreciation on the submission and evidence and found that making addition of Rs.2.73 crores is a result of clear mistake committed by Assessing Officer. The original investment was only Rs.90.00 lakhs which was rotated twice. Similarly, the assessee also explained the FDR with Bank of Baroda and maturity amount was received back in the financial year itself out of which Rs.90.00 lakhs was transferred to State Bank of Mysore for short term time deposit and Rs.45.00 lakhs with HDFC Bank. The original source of such time deposit was sale proceed of plots of land. The Ld. CIT(A) noted that initially assessee received Rs.1.50 cores, out of which the assessee invested in short term FDR of Bank of Baroda to the tune of Rs.1.498 crore and the maturity proceed were received back in first week of October, 2010. It was also noted that the assessee transferred Rs.90.00 lakhs to the State Bank of Mysore for investment in short term deposit. The assessee also transferred Rs.45 lakhs to another bank account with HDFC Bank. Thus, addition of Rs.1.49 crores is stand explained and deleted accordingly. For other addition of Rs.2.73 crores the Ld. CIT(A) recorded that from

the chart submitted by assessee that it is clearly explained that maturity amount of Rs.90 lakhs FDR with Bank of Baroda was transferred to Bank of Mysore and it was rotated twice and assessee received maturity amount of Rs.92.92 lakhs and Rs.92.99 lakhs respectively. The Id CIT(A) held that the Assessing Officer wrongly considered this investment and maturity as a separate investment and made addition of Rs.2,73,91,415/- (90,00,000 + 90,92,107 + 92,99,308), which is clear mistake by assessing officer. We find that Ld. CIT(A) deleted both the additions on appreciation of submission and evidence. Hence, we do not find any infirmity or illegality in the order of Ld. CIT(A). No contrary fact or evidence is brought to our notice to take other view. In the result, grounds No.2 & 3 of Revenue are dismissed.

23. Ground No.4 relates to deleting the addition of Rs.55.00 lakhs on account of advance given to Samuria Textile. We find that Assessing Officer made addition of Rs.65.00 lakhs which was advanced by assessee to various parties by taking view that assessee has not given any explanation or evidence to substantiate such transaction. We find that before Ld. CIT(A) the assessee explained the source of advance and the identity of persons. The Ld. CIT(A) granted relief to the extent of Rs.55.00 lakhs, advanced to Samuria Textile by taking view that the advances were given through account payee cheque to a firm wherein the son of assessee is also a partner. Thus, the identity of recipient was

proved. The source of fund was from the sale proceed of land which is already taxed as a capital gain. Therefore, Ld. CIT(A) held that either source of investment or application of income, can be taxed. The Ld. CIT(A) held that source of advance was part of sale proceed of land. Therefore, there was no reason for confirming the addition to the extent of Rs.55.00 lakhs advance to Samuria Textile. Remaining advance of Rs.10.00 lakhs which was not satisfactory explained was upheld. Before us the Ld. CIT-DR for the Revenue has not shown any contrary facts or evidence to take other view, except making submission that Ld. CIT(A) granted relief to the assessee by accepting explanation of assessee. In our view, the assessee discharged his onus in proving identity, source of investment and genuineness of transaction. Therefore, we do not find any reason to interfere with the finding of Ld.CIT(A), which we affirm. This ground No.4 of Revenue's appeal is dismissed.

24. In the result, this appeal of the revenue is dismissed.

Order pronounced in the open court on 06<sup>th</sup> July, 2023 in open court.

Sd/-  
**(Dr. ARJUN LAL SAINI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 06/07/2023  
*\*Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT(A)
4. CIT
5. DR
6. Guard File

By order

Sr. Private Secretary, ITAT, Surat