

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 540/Srt/2023 (Assessment Year 2016-17)
(Hybrid hearing)

Ripal Arvindbhai Patel, 10/2, Patel Nagar Society, Opp. Deepa Complex, Adajan Patia-395009. (Gujarat) PAN No. ANAPP 0272 C	Vs.	I.T.O., Ward-1(3)(8), Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Sapnesh Sheth, C.A.
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	08/08/2023
Date of hearing	27/10/2023
Date of pronouncement	27/10/2023

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 14/06/2023 for the Assessment Year (AY) 2016-17. The assessee has raised following grounds of appeal:

- “1. On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A), NFAC, Delhi has erred in partly confirming the action of assessing officer by sustaining the addition to the extent of Rs. 2,02,000/- as against Rs. 7,73,122/- made by him as explained investment u/s 69B of the I.T. Act, 1961.*
- 2. It is, therefore, prayed that above addition made by the assessing officer and confirmed by CIT(A), NFAC, Delhi may please be deleted.*
- 3. On the facts and circumstances of the case as well as law on the subject, the Id. CIT(A), NFAC, Delhi has erred in confirming the action of assessing officer in*

invoking provisions of Section 115BBE of the Act and in thereby taxing entire unexplained investment at flat rate of 30 percentages.

4. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id. AR) of the assessee submits that a very short controversy/issue is involved in the present appeal which relates to sustaining the addition by the Id. CIT(A) to the extent of Rs. 2.02 lacs as against the addition of Rs. 7,73,122/- made by the Assessing Officer on account of unexplained investment for purchase of machineries during the relevant financial year. The Id. AR of the assessee submits that the Assessing Officer made addition on the basis of his view that as per ITS Data showing that the assessee purchased machinery of Rs. 40.70 lacs as the value assessed by Customs EDI, System, Import-VI, Sachin. In fact, it was explained to the Assessing Officer that the assessee has purchased two machines aggregating of Rs. 34,68,000/- i.e. (Rs. 16,72,800/- and Rs. 17,95,200/-) on 29/01/2016. The Assessing Officer instead of appreciating the fact, made addition of difference between the assessable value adopted by Custom department and the purchase value shown by the assessee in her books of account, thereby making addition of Rs. 7,73,122/- on account of unexplained investment. Before the Id. CIT(A), the assessee submitted that the assessee purchased/imported two machines through two high-seas sale agreements with M/s Golden Falcon (India) for Rs.

36,70,000/- which includes cost of machineries of Rs.36,68,000/- and considering against high-seas sales and cost of import, transport, custom duty etc. of Rs. 2,02,000/-. The assessee also explained source of investment, which is otherwise not in dispute. The Id. AR of the assessee submits that the assessee also furnished copy of ledger account of Golden Falcon (India) showing the cost of machinery and payment thereof. The said party has given a discount of Rs. 41,928/- which is clearly discernable from the ledger account, copy of which is filed at page No. 5 of paper book. The assessee also furnished the details of payment of cost of machinery through banking channel. The confusion in the mind of lower authorities was only because of difference of cost of machinery and the assessable value by Custom Department. The Id. AR of the assessee by explaining the ledger of machinery and payment thereof and by showing the discount which clearly matches with the details of payment made by the assessee to Golden Falcon (India). The Id. AR of the assessee submits that the additions sustained by the Id. CIT(A) to the extent of Rs. 2.02 lacs is for the want of appreciation of the facts.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue after hearing the submission of assessee and going the details explained by the Id. AR of the assessee, he relied on the orders of lower authorities.

4. I have considered the submissions of both the parties and perused the record carefully. I find that during the assessment, the Assessing Officer made addition of Rs. 7,73,122/- by taking a view that Customs EDI, System, Import-VI, Sachin considered the assessable value of both the machineries at Rs. 40,70,994/-. The assessee has shown purchase of machineries at Rs. 34,68,000/- thereby a difference between the purchase value and the assessable value was treated as unexplained investment under Section 69B of the Act. Before the Id. CIT(A), the assessee filed detailed written submissions. The assessee also explained the total payment made to the seller by way of cheques on different dates aggregating to Rs.36,70,000/-. I find that the assessee has furnished copy of ledger account of Golden Falcon (India) showing the cost of machinery and payment thereof. The said party has given a discount of Rs. 41,928/- which is clearly discernable from the ledger account, copy of which is filed at page No. 5 of paper book. If the discount of Rs. 41,928/- allowed by seller is reduced, the actual payment made by the assessee is clearly match cost of machinery paid by the assessee. The confusion in the mind of lower authorities was with the assessable value of the machineries. On considering the submissions and the evidences filed by the assessee, I find that there is no unexplained investment as assumed by the assessing officer on account of purchases of machineries by the assessee. Hence, the assessing officer is directed

to delete entire additions under section 69B. In the result, the grounds of appeal raised by the assessee are allowed.

5. In the result, this appeal of assessee is allowed.

Order announced in open court on 27th October, 2023.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 27/10/2023

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat