

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 632/Ahd/2023
Assessment Year 2012-13**

Singhal Fabrics Pvt. Ltd., Ahmedabad PAN: AAOCS6635G (Appellant)	Vs	The Income Tax Officer, Ward-4(1)(1), Ahmedabad, (Respondent)
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Assessee by: Shri Chetan Agarwal, A.R.
Revenue by: Ms. Saumya Pandey Jain, Sr. D.R.

Date of hearing : 04-01-2024
Date of pronouncement : 10-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 06-07-2023 passed by ld. CIT(A) for assessment year 2012-13.

2. The grounds of appeal are as under:-

"1. Ld. CIT(A) erred in law as well as fact in confirming addition of Rs. 1080397/- made by Ld. AO being cheques received from third party credited and declared as sales in books of accounts.

2. Ld. CIT(A) erred in law as well as fact in upholding addition of Rs. 1080397/- made by Ld. AO without giving statement recorded during the course of search, material and evidences gathered during

the search and used against assessee though specific request made in the course of assessment.

3. *Ld. CIT(A) erred in law as well as fact in upholding addition of Rs. 1080397/- made by Ld. AO without giving cross examination of deponent on whose statement addition was made and used against assessee though specific request made in the course of assessment*

4. *LD. CIT(A) erred in law as well as fact in upholding reopening of the assessment u/s 147 of the IT Act.*

Total Tax Effect

Rs. 3,24,119/-”

3. The assessee company is engaged in business of textile. The assessee company filed original return of income for assessment year 2012-13 on 28-09-2012 declaring total income at Rs. 25,01,600/-. From the information received, the Assessing Officer observed that the assessee is one of the beneficiaries who received Rs. 10,80,997/- from M/s Shree Ambica Services and other proprietorship entities of Shree Ambica Service for financial year 2011-12 in the shape of Hundi wherein the assessee provided cash. The Assessing Officer has reason to believe that income amounting to Rs. 40,80,397/- escaped assessment in the case of the assessee chargeable to tax for assessment year 2017-18. Accordingly, proceedings u/s. 147 of the Act was initiated and notice u/s. 148 of the Act dated 29-03-2019 was issued. In response, the assessee filed its return of income on 03-04-2019. After issuing statutory notices, the assessee filed objection against the proceedings u/s. 147 which was rejected by the Assessing

Officer. The Assessing Officer after taking cognizance of the assessee's submission and details made addition of Rs. 10,80,397/- as unexplained credit u/s. 69A of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that there are no cheques received from the said firm of Shri Om Prakash Vihani as claimed by the Assessing Officer. The A.R. further submitted that the assessee received several cheques from their debtors against sellers from local sales up countries. The assessee during the assessment proceedings requested the Assessing Officer to give the details of cheque-wise figures totaling to Rs. 10,80,397/- so that the assessee can establish the fact that the assessee received the payment from the debtors against the sale made to them. The ld. A.R. submitted that the assessee before the Assessing Officer as well as the CIT(A) categorically submitted that the assessee did not deposit any cash or any cheque to the said parties against any hundi or cheque. The ld. A.R. submitted that the assessee did not receive any accommodation entry from Shri Om Prakash Vihani and therefore there is no escapement of income. The assessee has disclosed all the credit income in the ITR for the

year concerned. The ld. A.R. submitted that the assessee has disclosed all the income of payment received against the sale from various debtors and sales are credited in the profit and loss account as income of the assessee. The ld. A.R. submitted that as regards reopening of the assessee's case, the Assessing Officer has taken borrowed satisfaction and the reopening itself is bad in law/invalid. The ld. A.R. further submitted that no bifurcation of cheques was given as well as the statement of Shri Om Prakash Vihani was not given to the assessee and the assessee was not allowed to cross examine said person.

6. The ld. D.R. submitted that the reopening of the assessment is justifiable as after the search and the admission on the part of the Shri Om Prakash Vihani, the bogus accommodation entries and the cheques issued was established and therefore the reopening itself is justifiable. As regards the merits of the case, the assessee has not established any legitimate source of income for the satisfaction of the Assessing Officer and therefore the source of acquisition of the said income was not at all explained. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused the all the relevant materials available on record. From the perusal of the records which was submitted before the CIT(A) as well as before the

Assessing Officer, the assessee submitted the IT return along audit balance sheet, profit and loss account, bank statement, cash book, trial balance and sales register in respect of sale and purchase of the assessee. During the assessment order from the profit and loss account, it can be clearly seen that the assessee has given the details of cost of materials consumed and purchases of stock in trade. The assessee has disclosed all the cash trails of sales and purchases from its cash book trial balance and sales register with the supporting evidence that of bank statement. The sale documents were not at all doubted by the Assessing Officer. The assessee was not given any opportunity to cross examine the person upon whose statement the Assessing Officer has solely relied related to accommodation entries. As regards the reopening, the reopening has validly done by the Assessing Officer after recording the reasons and the satisfaction is not a borrowed satisfaction as contemplated by the Id. A.R. Thus, ground no. 3 is dismissed. But to the merits of the case of the assessee, the assessee has established all its trail of Rs. 10,83,397/- through its balance sheet, statement of bank account and the sale register as the assessee has received cheques from various parties to pay all their dues against the sales. The said cheques were not disputed by the Assessing Officer. Hence, ground no. 1 and 2 are allowed.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 10-01-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 10/01/2024

आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

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

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद