

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं**  
**माननीय श्री मनोमोहन दास, न्यायिक सदस्य का समक्ष।**  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM,**  
**AND HON'BLE SHRI MANOMOHAN DAS, JUDICIAL MEMBER**

**आयकर अपील सं./ ITA No.23/Chny/2022**  
**(निर्धारण वर्ष / Assessment Year: 2009-10)**

<b>ACIT</b> Central Circle-1(3) Chennai.	<b>बनाम</b> / Vs.	<b>M/s. Scope Ingredients Private Ltd.</b> No.16, Nyniappa Naicken Street, Sowcarpet, Chennai-600 003.
<b>स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AADCK-0528-K</b>		
<b>(आपीलार्थी/Appellant)</b>	<b>:</b>	<b>(प्रत्यर्थी / Respondent)</b>

<b>आपीलार्थी की ओरसे/ Appellant by</b>	<b>:</b>	<b>Shri AR.V.Sreenivasan (Addl.CIT) - Ld. Sr. DR</b>
<b>प्रत्यर्थी की ओरसे/Respondent by</b>	<b>:</b>	<b>Shri Poonam Jain (CA) - Ld.AR</b>

<b>सुनवाई की तारीख/Date of Hearing</b>	<b>:</b>	<b>07-03-2024</b>
<b>घोषणा की तारीख /Date of Pronouncement</b>	<b>:</b>	<b>03-04-2024</b>

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year (AY) 2009-10 arises out of order of an order passed by learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] on 05-10-2021 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 27-12-2011. The grounds taken by the revenue read as under: -

1. The order of the Id. Commissioner of I.T. (Appeals) is erroneous on facts of the case and in law.

2.2 The Id. CIT(A) erred in deleting the addition of Rs.2.47 Crores made towards unexplained credits, without appreciating that the assessee failed to prove the genuineness of the credit transactions.

2.2. The Id. CIT(A) failed to appreciate that the credits in the name of Shri. Umed Mehta and his floated concerns [Umedmal (HUF), Chakra Exports and Pranav Enterprises] are not genuine, inasmuch as Shri. Umed Mehta accepted that the entire transaction relating to M/s. Kawarlal group was only accommodation in nature.

2.3. The Id. CIT(A) erred in holding the impugned transactions with Umedmal (HUF), Chakra Exports and Pranav Enterprises were taxed in the hands of the appellant's group concern at source, without appreciating that the offer made for A.Y 2009-10 before the Income-Tax Settlement Commission (ITSC), Chennai, did not cover the impugned transactions and that the transaction with Pranav Enterprise was never offered for transaction in any of the assessment years.

3. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of Id. CIT(A) may be set aside and that of the Assessing Officer be restored.

As is evident, the sole issue that arises for our consideration is addition of unexplained cash credit for Rs.2.47 Crores as made by Ld. AO while framing an assessment for this year.

2. Pursuant to the directions of the bench vide order sheet entry dated 24-04-2023, Ld. Sr. DR placed on record report of Ld. Assessing Officer (AO) on the impugned issue. The Ld. Sr. DR supported the findings rendered by Ld. AO in the remand report. The Ld. AR, on the other hand, filed written submissions and relied on the findings of Ld. CIT(A) in the impugned order as well as findings rendered by Ld. AO in the assessment order. The Ld. AR submitted that the impugned amount has already been offered by the group before Hon'ble Income Tax Settlement Commission and therefore, there could be no occasion to tax the same again. Having heard rival submissions and upon perusal of case records including report of Ld. AO, the appeal is disposed-off as under.

### **3. Assessment Proceedings**

3.1 The impugned addition stem from the fact that the assessee received unsecured loans from various parties which are tabulated on

page no.1 of the assessment order. Out of this, loans taken from three parties have been disputed by Ld. AO on following findings: -

1. Unsecured loan received from C. Umedmal HUF (represented by Mr.Umed Mehta):

M/s C. Umedmehta (karthà of C. Umedmal HUF) submitted the source of funds for granting of unsecured loan to the assessee Company as below:

Commission received from Kawaral & sons (group concern of the assessee) by Umed Investments & Marketing Co Pvt Ltd on 3/11/2008 (reflected in bank statement) Rs.2,83,09,632/-

Commission received from Kawarlal & Sons (group concern of the assessee) by Kesaria Marketing Pvt Ltd on 3/11/2008 Rs. 97,53,700/-

The above commission amounts were transferred to the concerns run by Shri Umed Mehta, the Kartha of C. Umedmal - HUF as follows.

From Umed Investment vide Cheque No.932791	Rs.1,00,00,000/-
From Umed investment vide Cheque No.932792	Rs. 2,00,000/-
From Kesaria Marketing Vide cheque no.805523	<u>Rs. 23,00,000/-</u>
	Rs.1,25,00,000/-

This amount of Rs.1,25,00,000/- has gone back from C. Umedmal HUF to the assessee Company (which is also one of the Kawaral & Sons group company). However, the assessee has shown outstanding amount as Rs.1,30,00,000/- including interest payable of Rs.8,32,876/- after reducing Rs.3,32,876/- as loan repaid from M/s Umedmal HUF which is nothing but the amount diverted from the Company itself.

2. Unsecured loan received from M/s.Chakra Exports:

The assessee Company has received a sum of Rs.75,00,000/- from M/s Chakra Exports (one of the floated proprietary concern of Shri Umed Mehta)

a) Amount received from Kawarlal & sons by Kesaria Marketing Pvt Ltd (Umed Mehta group) Rs.97,53,700/-  
Amount received from D.K. Enterprises by Kesaria Marketing Pvt Ltd (Umed Mehta group) Rs.51,00,570  
Rs.1,48,54,270

b) From the above, amount diverted to Vim Mines & Minerals Rs.1,25,00,000

c) Out of this Rs.1.25 Crores a sum of Rs.75 Lakhs is diverted by Vim Mines & Minerals to M/s Chakra Exports.

d) From the above, the assessee company received back Rs.75 lakhs as unsecured loan from M/s Vim Mines & Minerals.

3. Unsecured loan received from M/s. Pranav Enterprises:

Finally, the assessee Company has received Rs.39,00,000/- from M/s. Pranav Enterprises (one of the floated propriety concern of Umed Mehta group) which is nothing but the money given to Shri Umed Mehta. The assessee has shown outstanding amount as Rs.42,00,000/- including the interest payable (Rs.2.57 lakhs) to M/s.Pranav.

From the nature of transaction discussed above, it could be easily gathered that the transactions in issue involved circulation of funds among the assessee's group concerns.

In other words the unsecured loan introduced were nothing but a device adopted by the assessee to introduce its own unexplained money into account. Just because the impugned transactions had been routed through the banking channels, the motivation of the transaction will not be genuine. Hence, the entire transaction is a sham transaction since assessee's money was routed through different accounts and was received back as unsecured loan.

A survey was conducted in the Umed Mehta's group of companies during August 2009. During the course of survey proceedings it was admitted by the Director of the Company Shri.Umed Mehta that he had floated various companies/ proprietary concerns in his name and in the name of his family members to accommodate the receipts from M/s. Kwarlal & Sons.

Since the assessee has used circular route to receive the loan on its account and the same is merely a device being used to evade tax and as such, the unsecured loan received from Mr. Umed Mehta & his group concerns is taxable in the hands of the assessee. Hence a sum of Rs.2,47,00,000/- is disallowed and added to the income returned.

3.2 It could be seen that Ld. AO rendered a finding that unsecured loan was nothing but device adopted by the assessee to introduce its own unexplained money into the account. The entire transaction was a sham transaction since assessee's money was routed through different accounts and was received back as unsecured loan. Pursuant to survey operation in Umed Mehta's group of companies, it was admitted by Shri Umed Mehta that he had floated various companies / proprietary concerns in his name and in the name of his family members to accommodate the receipts from M/s. Kwarlal & Sons. The assessee used circular route to receive the loan on its account and the same was merely a device being used to evade taxes and accordingly, the amount of loan was brought to tax in the hands of the assessee. Aggrieved as aforesaid, the assessee preferred further appeal before Ld. CIT(A).

### **Appellate Proceedings**

4.1 The assessee drew attention to the fact that a settlement application was preferred by Shri Umed Mehta wherein he surrendered an additional income of Rs.970.02 Lacs towards transactions with the

concerns of Umed Mehta group. The Ld. AO made impugned addition in the hands of the assessee on account of unsecured loans received from concerns of Shri Umed Mehta out of commission paid to the assessee's group concerns viz. M/s Kawarlal & Sons and M/s D.K. Enterprises. Since, now both these entities offered additional income and paid taxes under settlement, the same could not be taxed in the hands of the assessee. In support, ledger copies of both these entities were also enclosed. The assessee also tabulated the commission & interest expenditure in its written submissions. The assessee also established chain of flow of funds in support of its claim.

4.2 Concurring with assessee's submissions as well as working, Ld. CIT(A) deleted the impugned additions as under: -

7. I have gone through the facts of the case and the material available on record. The Assessing Officer had added Rs.1,30,00,000 towards unsecured loan received from C. Umedmal HUF; Rs.75,00,000 from M/s. Chakra Exports and Rs.42,00,000 from M/s. Pranav Enterprises. The appellant contended that the assessee group as a whole surrendered additional income of Rs.22,76,15,808 towards the transactions with the concerns of Umed Mehta; in the concerns of Kawarlal & Sons and M/s. D.K. Enterprises and pleaded that the addition made in the hands of the appellant "previously known as Kawarlal Excipients Pvt. Ltd." is untenable as the original expenditure purported to have been routed as unsecured loan have been taxed at source.

8. The details of offer of income before the Hon'ble ITSC by the appellant group has been seen in Table 5a and Table 5b of the appellant's submission in para 6.2 supra for AY 2007-08 & 2008-09 to the 4,64,52,537 and 5,05,49,953 respectively.

8.1. With regard to the addition of Rs.1,30,00,000 towards the loan from C. Umedmal HUF, it is noticed that in the order u/s 245(D)(4) of the Act passed by the Hon'ble ITSC, Chennai dated 31.05.2016 in the case of the appellant and other related parties, it is noticed that Rs.5,70,72,192 [as shown in Table 1 in para 6.2 supra] was expended by Kawarlal & sons towards commission expenditure that has been expended in the manner as shown in Table 6 of the appellant's submission in para 6.2 supra, it is correlated and noticed that the payment of commissions and interest which was in turn purported to have been given back to the appellant by the concerns of Umed Mehta in the form of unsecured loans has been taxed in the hands in the appellant's group concern at the source itself on incurrance of expenditure.

8.2. Similarly, with regard to the addition of Rs.75,00,000 towards the loan from M/s. Chakra Exports, it is noticed that in the order u/s 245(D)(4) of the Act passed by the Hon'ble ITSC, Chennai dated 31.05.2016 in the case of the appellant and other related parties it is noticed that Rs.1,25,84,178 [as shown in Table 1 in para 6.2 supra] was expended by D.K. Enterprises [Prop: Ramlal Jain, HUF] towards commission expenditure that has been expended in the manner as shown in Table 6 of the appellant's

submission, it is correlated and noticed that the payment of commission and interest which was in turn purported to have been given back to the appellant in the form of unsecured loans has been taxed in the hands in the appellant's group concern at the source itself on incurrance of expenditure.

8.3. The AO has added Rs.42,00,000 said to be loan from M/s. Pranav enterprises which is also reckoned as a transaction routed through the concerns of Umed Mehta out of the commission and expenditure claimed by the appellant's group and has the appellant's group has offered the entire sum of money as commission and expenditure from concerns of Umed Mehta, that is evident from the table supra, I am of the view that the impugned sum is part of the offer of additional income disclosed before the Hon'ble ITSC .

9. In view of the foregoing discussions and in view of the facts of the determination of total income arrived at by the Hon'ble ITSC wherein the source for the impugned credits brought to tax by the Assessing Officer has been subjected to tax, I am of the view that the impugned additions of Rs.2,47,00,000 [Rs.1,30,00,000 from C. Umedmal HUF; Rs. 75,00,000 from M/s. Chakra Exports and Rs.42,00,000 from M/s. Pranav Enterprises] are untenable. The AO is therefore directed to delete the additions.

10. In the result, the appeal for A Y 2009-10 is allowed.

The Ld. CIT(A) has rendered clear finding that the impugned credits brought to tax by Ld. AO had already been subjected to tax in settlement application of assessee group. The impugned amount was part of additional income disclosed by assessee's group concerns viz. M/s Kawarlal & Sons and M/s D.K. Enterprises. Therefore, it was held that the source of impugned credits as brought to tax by Ld. AO had already been subjected to tax. Accordingly, the additions were deleted. Aggrieved, the revenue is in further appeal before us.

### **Our findings and Adjudication**

5. In the remand report as brought on record by Ld. Sr. DR, Ld. AO has submitted as under: -

2. The following unsecured loans received by the assessee during FY 2008-09 have been held as unexplained and added to the returned income for the assessee for the AY 2009-10 in the assessment order u/s.143(3) dated 27.12.2011:

i. C. Umed Mehta (HUF)	Rs.1,30,00,000
ii. M/s.Chakra Exports	Rs. 75,00,000
iii M/s. Pranav Enterprises	<u>Rs. 42.00.000</u>
Total	<u>Rs.2,47,00,000</u>

3. The claim of the assessee is that this amount of Rs.2,47,00,000/- is sourced by the additional income in the form of commission and interest expenditure for the AY

2008-09 declared by group concerns of the assessee viz. M/s. Kawarlal & Sons and M/s.D.K. Enterprises in their settlement applications filed before the Hon'ble ITSC. The Hon'ble ITSC has passed order u/s.245D(4) on 31.05.2016.

4. It can be seen from submission of the assessee that M/s. Kawarlal & Sons and M/s.D.K. Enterprises have declared additional income of Rs.5,70,72,192/- and Rs.1,25,84,178/- as additional income representing commission and interest expenses incurred during the F.Y 2007-08 as payable to the concerns of Umed Mehta group.

5. However, actual amounts have been paid to Umed Mehta group of concerns in November, 2008 only as below:

S.No.	Name of concern of the assessee group that made payment	Name of concern of Umed Mehta Group to which payment was made	Amount Paid	Date of payment
1.	M/s. Kawarlal & Sons	Umed Investments & Marketing Co.P.Ltd	2,83,09,632	03.11.2008
2.	-do-	Kesaria Marketing Pvt.Ltd	97,53,700	01.11.2008
3	D.K. Enterprises	-do-	51,00,570	01.11.2008
	Total		4,31,63,902	

6. It has been submitted during appeal proceedings by the assessee vide appeal paper book-I dated 27.03.2023 that the above concerns of Umed Mehta group transferred the amounts so received to the concerns run by Shri Umed Mehta, the Kartha of C. Umedmal (HUF) and thereafter out of the same, a sum of Rs. 1,25,00,000/- was transferred to the assessee company as unsecured loans.

7. Similarly, it has been submitted that out of the sum of Rs.1,48,54,270/- transferred to M/s Kesaria Marketing Pvt. Ltd. from the amounts received from Kawarlal & Sons and M/s D.K. Enterprises, sum of Rs.1,25,00,000/- was diverted to M/s Vim Mines & Minerals. It has been further submitted that out of this amount only a sum of Rs. 75,00,000/- was transferred to M/s Chakra Exports which was in turn transferred to the assessee company.

8. It has also been submitted that out of the amounts so transferred to Umed Mehta concerns only, a sum of Rs.39,00,000/- was transferred from M/s Pranav Enterprises to the assessee as unsecured loan. But such nexus to the above amount declared is not proved. There is no declaration before the ITSC about transaction with or through Pranav Enterprises. There is no information in the Settlement.

9. All the above are only claims of the assessee in the appeal proceedings and the assessee has not proved the fund flow from one concern to the other and finally to the assessee company, chronologically, to prove that the amount of additional income declared by the group concerns of the assessee in their settlement applications before the Hon'ble ITSC is the ultimate source for the unsecured loans received by it. The assessee has not produced the ledger accounts and relevant bank account statements of the concerns of the Umed Mehta Group to substantiate its claim. Thus, the assessee has not proved that the source for the unsecured loans of Rs.2,47,00,000/- is the amount of additional income declared by its group concerns viz. M/s Kawarlal & Sons and M/s D. K. Enterprises, either during assessment proceedings or during the present appellate proceedings.

10. In the Settlement Applications filed by Parasmal Jain (Prop. Kawarlal & Sons) & by Ramlal Jain (HUF) (Prop. D. K. Enterprises) & the assessee, M/s

Scope Ingredients, the applicants have not declared that the unsecured loans received by the assessee, as out of the additional income representing commission expenditure declared by Kawarlal & Sons and D. K. Enterprises before the ITSC.

11. It may be seen that the assessee has also filed application before the ITSC and had made prayer to settle the issue in respect of the addition of Rs.2,47,00,000/- made by the AO for the A.Y. 2009-10 related to unsecured loans received from Umed Mehta & group concerns. But the assessee has not even averred in the Settlement Application that the source for the loan in respect of which addition made as from the commission income offered by Kawarlal & Sons and D.K. Enterprises and so the Hon'ble ITSC has not accepted such plea and has not given any finding or decision on this matter.

12. It is, therefore, submitted that the assessee's submissions have to be rejected and the additions made in the assessment order have to be restored.

6. Regarding contention of the assessee that the aforesaid amounts have been transferred by concerns of Umed Mehta Group, Ld. AO has alleged that these are mere claims of the assessee in the appeal proceedings and the assessee has not proved the fund flow from one concern to the other concern, chronologically to prove that the amount of additional income declared by the group concerns of the assessee in their settlement applications before the Hon'ble ITSC is the ultimate source for the unsecured loans received by it. However, we find that these submissions run contrary to the very basis of Ld. AO making impugned addition in the assessment order. In the assessment order, the Ld. AO has noted the chain of flow of funds and finally rendered a finding that unsecured loan as received by the assessee was nothing but device adopted by the assessee to introduce its own unexplained money into the account. The entire transaction was a sham transaction since assessee's money was routed through different accounts and was received back as unsecured loan. It was the admission during survey operation that Shri Umed Mehta had floated various concerns to accommodate the receipts from M/s. Kawarlal & Sons. It was also

alleged that the assessee used circular route to receive the loan on its account and the same was merely a device being used to evade taxes. Therefore, the same was brought to tax. The remand report is in contradiction to the findings in the assessment order and therefore, the same could not be accepted by us.

7. As against this, it could be seen that the assessee established complete chain of flow of funds by way of elaborate written submissions during the course of appellate proceedings. The relevant ledgers were also furnished. The assessee has received unsecured loans from 3 entities viz. M/s C. Umedmal HUF, M/s Chakra Exports and M/s Pranav Enterprises. The source of the same was commission received from Kawarlal & sons and M/s D.K. Enterprises which are group concerns of the assessee. These two concerns have surrendered income before Hon'ble ITSC and therefore, the impugned additions have been taxed at source itself. The assessee has established clear chain of funds to substantiate this fact. The assessee has also filed necessary details including income offered before settlement commission in the name of group companies and further clarified that group Companies had paid commission to above entities of Umed Mehta. Considering all these facts, Ld. CIT(A) held that impugned credits stood subjected to tax and covered by Settlement application. Except for mere allegations, the remand report is unable to controvert all these findings. In such a situation, we see no reason to interfere in the impugned order. It is cardinal principal of taxation that amount once taxed could not be taxed again. Therefore, we confirm the findings of Ld. CIT(A) in the impugned order.

8. The appeal stand dismissed.

Order pronounced on 3<sup>rd</sup> April, 2024

Sd/-  
(MANOMOHAN DAS)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(MANOJ KUMAR AGGARWAL)  
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 03-04-2024  
DS

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF