

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ
**IN THE INCOME TAX APPELLATE TRIBUNAL,
" SMC" BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And
Ms MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No. 542/AHD/2023

निर्धारण वर्ष/Asstt. Year: 2012-2013

Vinal Comtrade Private Limited, 22, Harsiddh Complex, Ashram Road, Ambawadi-380009. PAN: AADCV2292H	Vs.	Income Tax Officer, Ward-4(1)(4), Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by	:	Shri M.K Patel, AR
Revenue by	:	Shri Nitin Vishnu Kulkarni, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : **18/03/2024**

घोषणा की तारीख /**Date of Pronouncement**: **10/04/2024**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Appeals), Ahmedabad, arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2012-13.

2. At the outset, we note that there was a delay of 27 days in filing the appeal by the assessee. The assessee has filed the condonation petition for such delay explaining that the appeal filing fees was not paid within the time due to nonavailability of the director at the station. Thus, the delay has happened in filing the appeal. The learned AR accordingly prayed to condone the delay. Considering the length of the delay and the reason for the same, the Id. DR appearing on behalf the Revenue raised no objection on condonation of the petition. In view of the above facts, we deem it fit to condone the delay in filing the appeal by the assessee and proceed to adjudicate the issue on merit.

3. The only issue raised by the assessee is that the Ld. CIT(A) erred in confirming the addition of Rs. 3,15,245/- being 1% of the value of the accommodation entries provided by the assessee.

4. The AO during the assessment proceedings found that the assessee has been engaged in the providing accommodation entries and therefore 1% of the amount on the value of accommodation entries being 3,15,245/- was worked out and added to total income of the assessee.

5. Aggrieved assessee preferred an appeal to the Ld. CIT(A). The assessee before the Ld.CIT(A), contended that the bank account of the assessee was being managed and control by Shri Jignesh Shah who has owned up the entries in the bank account of the assessee. Thus, the assessee contended that no addition in the hands of the assessee is warranted. However, the Ld. CIT(A) dismissed the appeal of the assessee.

6. Being aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

7. The Ld. AR before us filed the assessment order in the case of Shri Jignesh Sudhir bhai Shah and contended that the accommodation entries provided by the assessee has been owned up Shri Jignesh Shah which can be verified from the assessment order placed on record. Therefore, no addition is warranted.

8. On the other hand, the Ld. DR submitted that the assessee is one of conduits of the group engaged in the accommodation entries and therefore some benefit must have flown to the assessee. Therefore, the same should be charged in the hands of the assessee only. The Ld. DR vehemently supported the order of the authorities below.

9. We have heard the rival contentions of both the parties and perused the materials available on record. On perusal of the assessment order, we note that the AO has recorded that the assessee has provided the accommodation entries through his bank account maintained with Yes Bank and DCB Bank amounting to Rs. 92,08,931.00 and Rs. 2,23,15,602/- only. We further note that the same account of accommodation entries is already owned up by Shri J Shah which can be verified from the assessment order in the case of Shri J Shah relevant page 61 of the order. Once the accommodation entries have been owned up and made subject to tax in the hands of Shri J Shah, we do not find any reason for making addition in the hands of the assessee which will amount to double addition. Such double addition is not desirable under the provision of law until and unless some specific provision warrant so. Accordingly, we find force in the argument of Ld. Counsel for the assessee. Thus, we set aside the findings of the Ld. CIT(A) and

direct the AO do delete the addition made by him. Hence, the ground of appeal of the assessee is hereby allowed.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the Court on 10/04/2024 at Ahmedabad.

**Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER**

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

Ahmedabad; Dated
Manish

(True Copy)
10/04/2024