

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "सी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" C " BENCH, AHMEDABAD

श्री सिद्धार्थ नौटियाल, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTNAT MEMBER

आयकर अपील सं./ITA No.940/Ahd/2023
निर्धारण वर्ष /Assessment Year : 2016-17

Mafaji Umedaji Jat At Rampura PO Rampura, Tal.Deesa Banaskantha - 385 535 (Gujarat)	बनाम/ v/s.	The income Tax Officer Ward-1 Palanpur 385 001 Dist. Banaskantha
स्थायी लेखा सं./PAN: AKIPJ 4846 K		
(अपीलार्थी/ Appellant)	(प्रत्यर्थी/ Respondent)
Assessee by :	Shri S.N. Divatia & Shri Samir Vora, ARs	
Revenue by :	Shri Ashok Kumar Suthar, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 11/07/2024
घोषणा की तारीख /Date of Pronouncement: 15/07/2024

आदेश/ORDER

PER SHRI MAKARAND V. MAHADEOKAR, AM:

This appeal is filed by the Assessee as against the order dated 29/09/2023 passed by the Ld.Commissioner of Income-tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" in short], arising out of the assessment order dated 24/03/2022 passed by the Assessing Officer (AO) under section 147 r.w.s.144 read with

section 144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act") relevant to the Assessment Year (AY) 2016-17.

Facts of the case:

2. The Assessee filed his return of income for the AY 2016-17 on 17.02.2017 u/s. 139(4) of the Act declaring total income at Rs.2,95,870/-. Subsequently, case of the assessee got re-opened on the basis of information available with the department that the assessee has introduced capital in cash of Rs.28,00,000/- in the firm M/s.Salasar Balaji Cold Storage, Deesa during the year under consideration. The Assessee filed his return of income in response to notice u/s.148 of the Act on 30.04.2021 declaring same income as shown in the original return of income. Notices u/s.143(2) and u/s.142(1) of the Act were issued to the assessee in response to which the assessee submitted details like partnership deed of the firm M/s.Salasar Balaji Cold Storage, bank statements, ITR-V, computation of income and balance sheet, etc.

2.1. The AO observed that apart from introduction of new capital in cash for Rs.28,00,000/- by an assessee in Salasar Balaji Cold Storage, there is also unsecured loan of Rs.10,01,843/- from Salasar Balaji Cold Storage and Sundry Creditors of Rs.40,99,915/-. The AO asked for establishing source along with documentary evidence.

2.2. The Assessee explained that he was doing agricultural activities and trading in potatoes since last 25 years. Source of capital introduction in Salasar Balaji was cash withdrawal from bank, Sale of Milk, sale of Potatoes

and accumulated savings from agricultural income. About an unsecured loan of Rs. 10,01,843/-, he explained that the firm is giving loans to farmers against the stock which it is holding (being Cold Storage) the same amount is a kind of pledge loan that assessee had taken from Salasar Balaji Cold Storage for warehousing of potatoes in the cold storage. He also submitted that sundry creditors of Rs. 40,99,915/- is for potato purchase from farmers and he can submit the Land records and KYC of all the Farmers for AO's verification.

3. The AO not being satisfied with the explanation and for want of documentary evidence, made the addition of entire amount of capital introduced of Rs.39,00,000/- (including cash introduction in Salasar Balaji Cold Storage), Sundry Creditors of Rs.40,99,315/- and unsecured loan of Rs.10,01,843/- thereby making total addition of Rs.90,01,758/- u/s.68 of the Act as unexplained cash credit.

4. The assessee filed appeal before the Ld.CIT(A) against the order of AO. The Ld.CIT(A) issued notices on 28-07-2023, 21-08-2023, 11-09-2023, but there was no any response from the assessee. The only response received from the assessee was a request to adjourn the matter for 15 days. On 16-11-2022, communication window was enabled so that assessee can respond without any notice, but there was no response from the assessee. Therefore, the Ld.CIT(A) dismissed the appeal for want of necessary material on record to decide the matter on merit.

5. Aggrieved by the order of the Ld.CIT(A), the assessee is before us with the following grounds of appeal:

- “1. The Ld. CIT(A), NFAC, Delhi was grievously erred in confirming the addition of Rs. 39,00,000/- u/s. 68 made by the Ld. A.O. as unexplained credit being entire investment made in partnership firm M/s. Salasar Balaji Cold Storage which is illegal and incorrect because Rs. 39,00,000/- is in the Books of the Firm and not in the books of the appellant.
2. The Ld. CIT(A), NFAC, Delhi was grievously erred in confirming the addition of Rs. 10,01,843/- u/s. 68 made by the Ld. A.O. as unexplained credit being pledge loan taken from the firm M/s. Salasar Balaji Cold Storage against the stock of potatoes which is illegal and incorrect. The Ld. A.O. has overlooked the sizeable amount of Potato closing stock of Rs. 38,77,626/-.
3. The Ld. CIT(A), NFAC, Delhi was grievously erred in confirming the addition of Rs. 40,99,915/- u/s. 68 made by the Ld. A.O. as unexplained credit being creditors for the purchase of potatoes being creditors in the course of business which is illegal and incorrect.
4. The Ld. A.O. has grievously erred in levying the Interest of Rs. 27,478/- u/s. 234A and Rs. 19,65,168/- u/s. 234B which is illegal and bad in law.
5. The appellant therefore requests your Honour to kindly delete the above-mentioned additions confirmed by the Ld. CIT(A) which were made by the Ld. A.O. and interest u/s. 234A & 234B looking to the merits of the case.
6. The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.”

5.1. During the course of hearing before us, the assessee submitted an application for admission of additional evidence under rule 29 of ITAT Rules, 1963. The Ld.Counsel for the assessee stated that the assessee is an agriculturist and not well educated. The Assessee carries out his business in a mofussil area and not aware about the intricacies of tax compliances. The Assessee was solely dependent on an account and tax consultant who also is from small town. The Ld.Counsel further stated that the assessee was under

bona fide belief that the tax consultant has replied to the due compliance after providing necessary documents as asked by the AO to him. When the assessee contacted a Chartered Accountant from Ahmedabad, it came to the knowledge that books of accounts like cash book ledger, etc. was not produced before the AO. The Ld.Counsel for the assessee submitted before us the cash book, account statement from the firm and account statements of different parties.

5.2. Based on the facts and submissions, we find that the assessee has provided explanations for the capital introduction, unsecured loan, and sundry creditors. However, these explanations require verification on the basis of the newly submitted documents, which were not produced before the AO earlier.

5.4. In the interest of justice, we deem it appropriate to restore the matter back to the file of the AO for a fresh examination of the evidence and explanations provided by the assessee.

6. The Ld.Departmental Representative did not object to restoring the matter back to the file of AO.

7. Therefore, we set aside the order of the Ld.CIT(A) and restore the matter back to the file of the AO. The AO is directed to re-examine the case afresh, considering the additional evidence and explanations provided by the assessee. Needless to say that the AO would afford reasonable opportunity to the assessee for furnishing the additional evidence, if any. The assessee is also hereby directed to co-operate with the AO for furnishing

the additional evidence and explanations. Hence, the appeal of the assessee is allowed for statistical purposes.

8. In the result, the appeal of the Assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 15th July, 2024 at Ahmedabad.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

अहमदाबाद/Ahmedabad, दिनांक/Dated 15/07/2024

टी.सी.नायर, व.नि.स.।T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-(NFAC), Delhi
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad