

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

I.T.A. No.386/Ahd/2022
(Assessment Year: 2017-18)

Navkar Petroleum, Survey No. 406, Sanathal Village, Sanand, Ahmedabad-382210	Vs.	Income Tax Officer, Ward-3(2)(3), Ahmedabad
[PAN No.AADFN4429R]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Pritesh Shah, A.R.
Respondent by:	Shri Pratik Sharma, Sr. DR

Date of Hearing	22.05.2024
Date of Pronouncement	12.08.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order 30.09.2022 passed for Assessment Year 2017-18.

2. The Assessee has taken the following grounds of appeal:-

“1. The learned CIT(A) erred in law and on facts in confirming the addition of Rs.50,86,389/- considering the unsecured loans as bogus, such addition is requested to be deleted.

2. The learned CIT(A) erred in law and on facts in confirming the disallowance of Bad Debts of Rs. 9,48,047/- being 50% of Total Bad Debts of Rs.18,96,094/-, such disallowance is requested to be deleted.

3. The learned CIT(A) erred in law and on facts in confirming the disallowance of excess claim of expenses made in cash amounting to Rs.15,71,486/- being 20% of various expenses Rs.78,57,432/-, such disallowance is requested to be deleted.”

3. The brief facts of the case are that the assessee is having a dealership of petrol pump. The assessee filed return of income declaring total income at Rs. 5,31,270/- on 03.11.2017. On verification of Audit Report submitted by assessee, the Assessing Officer observed that assessee had shown unsecured loan of Rs. 2,26,22,046/- in it's balance sheet. However, the assessee did not submit any contra confirmation, Income Tax Return and bank statement to justify these unsecured loans. In response to show-cause notice issued by the Assessing Officer, the assessee filed it's reply vide letter dated 09.12.2019, in which he produced copy of ITR, confirmation of parties, bank statement of unsecured loans. However, the Assessing Officer observed that the assessee failed to provide contra confirmation, ITR and bank statement of three parties viz. J D Broker – Rs. 1,89,136/- (alongwith interest paid of Rs. 15,707/-), J D Shroff – Rs. 22,28,360/- (alongwith interest paid of Rs. 2,59,289/-) and Rajeshbhai H. Thakkar – Rs. 26,69,343/- (alongwith interest of Rs. 3,33,296/-). The assessee stated that these three parties did not provide these details since the documents contained information / these parties do not want to divulge to the Tax Authorities. The Assessing Officer was of the view that the assessee has not been able to discharge the onus to prove the genuineness and creditworthiness of the parties from whom unsecured loan was taken. Accordingly, unsecured loans amounting to Rs. 50,86,389/- were added to the income of the assessee.

3.1 Further, the Assessing Officer observed that the assessee had claimed bad debts written off of Rs. 18,96,094/- as expenses in it's Profit & Loss Account. However, the assessee has not furnished any supporting evidence to justify the claim. The Assessing Officer issued show-cause notice asking the assessee to prove the genuineness of such bad debts written off, but the

Assessing Officer observed that the assessee could only furnish ledger of bad debts written off, which is also unsigned by the parties. Further, the Assessing Officer observed that most of the bad debts written off are with respect to persons who are in business of transportation and logistics. In this regard, the assessee could neither provide confirmation nor submit any bills or vouchers to prove the genuineness of such bad debts. The Assessing Officer observed that the ledgers produced by the assessee were unsigned from the parties from whom payment was due and further, the sample copies of bills produced by the assessee were computer generated and fabricated. Accordingly, the Assessing Officer was of the view that the assessee had created a bogus liability in its books of accounts which was then written off as bad debts to suppress the Revenue. Accordingly, the Assessing Officer disallowed 50% of bad debts claimed by the assessee under Section 36(1)(vii) of the Act and added a sum of Rs. 9,48,047/- to the income of the assessee.

3.2 The Assessing Officer also observed that the assessee had claimed various expenses like salary, bonus, pump expenses, staff welfare expenses, office expenses and convenience expenses totalling to Rs. 78,57,432/-. The Assessing Officer observed that most of these expenses were paid in cash and further, there has been a substantial increase under these heads of expenses as compared to the preceding years. Accordingly, the Assessing Officer disallowed 20% of the above expenses of Rs. 78,47,532/- i.e. Rs. 15,71,486/- and the same was added to the total income of the assessee.

4. The assessee filed appeal before Ld. CIT(A), who dismissed the appeal of the assessee on account of non-appearance with the following observations:

“4.3 During the appellate proceedings, various notices u/s 250 of the Act were issued through ITBA Portal to the appellant vide dated 19.01.2021, 04.07.2022, and

05.09.2022. It is noted that the appellant was given several opportunities to present its appeal by way of written submission and supporting documents/evidences. However, the assessee failed to comply with any reply/submission. The appellant has not made any written submission and has only furnished copy of the assessment order, grounds of appeal and statement of facts in Form No. 35. In view of the above, the appeal is decided on the basis of facts on material available on record.

4.4 During the course of appellate proceedings, the appellant was provided many Opportunities as enumerated above. However, the appellant has remained noncompliant. No material fact has been brought on record in support of the grounds of appeal or to rebut the finding of the AO. The appellant inspite of being given ample opportunities during appellate proceedings, failed to offer any explanation/supporting documents in respect of grounds of appeal raised by the appellant. I have carefully considered the assessment order and I find that the addition has been correctly made by the AO. The AO has discussed the issues in detail. The appellant has not furnished any explanation or document to rebut the findings of the AO. In view of the above facts, I do not find any reason to interfere with the order of the AO. Hence, the total additions Rs.76,05,922/- is **confirmed**. Accordingly, all the grounds of appeal taken by the appellant are **dismissed**.

5. In the result, the appeal is **dismissed**.”

5. The assessee is in appeal before us against the aforesaid order passed by the Ld. CIT(A) dismissing the appeal of the assessee.

6. The Counsel for the assessee submitted before us substantial documentary evidences in support of the genuineness of the claim. The Counsel for the assessee submitted that complete details of expenses could not be submitted to the Assessing Officer. The Counsel for the assessee submitted before us a detailed Paper Book containing voluminous supporting documents, in support of the genuineness of aforesaid expenses. With respect to unsecured loans, the Counsel for the assessee submitted that so far as unsecured loan with respect to J B Broker is concerned, the amount was repaid back by the assessee in the succeeding year (Page 93 of the Paper Book). So far as J D Shroff is concerned, the Counsel for the assessee submitted that TDS has been duly deducted by the assessee at the time of interest payment which demonstrates that unsecured loan was not genuine. Further, the Counsel for the assessee also

submitted details like PAN card, Aadhar card and also ITR of this party to prove the genuineness of this unsecured loan. Further, with respect to the third party Rajeshbhai H. Thakkar, the Counsel for the assessee submitted that out of a sum of Rs. 26.69 lakhs, a sum of Rs. 7 lakhs has been repaid back to the party (Page 138 of the Paper Book). Further, the Counsel for the assessee also submitted that the assessee had also deducted taxes on the interest amount paid to such party. Accordingly, the assessee submitted that so far as unsecured loans are concerned the assessee has adequate documentation to prove the genuineness of the claim.

7. With respect to the ground regarding disallowance of bad debts, the Counsel for the assessee drew our attention to Page 145-153 of the Paper Book and submitted that sales amounting to Rs. 17 lakhs approximately were made to Santosh Roadlines in F.Y. 2012-13 (which constitutes a substantial portion of the bad debts written off) and therefore, since substantial sales had been made to this party in the earlier year, the write off of such amount was not bogus as alleged by the Assessing Officer.

8. With regards to excess claim of expenses made in cash, the Counsel for the assessee submitted a comparative chart of expenses as compared to the previous year and gave a comparison of increase in sales during the impugned assessment year as well as the increase in cash expenses, with a view to support the genuineness of such expenses. The Counsel for the assessee submitted that in this line of business, the assessee was required to make cash payments and hence, the Assessing Officer erred in facts and in light in disallowing the expenses.

9. In response, Ld. D.R. submitted that assessee was given ample opportunities to submit various documents / details / supporting evidences to prove the genuineness of expenses, but the assessee failed to submit these documents before the Tax Authorities. Secondly, the Ld. D.R. submitted that so far as bad debts are concerned, the bills submitted by the assessee were apparently not genuine and hence the claim cannot be allowed. Further, the Ld. D.R. submitted that the assessee has not furnished any comparative chart to show the reason for increase in expenses during the impugned assessment year. The Ld. D.R. submitted that the entire salary of Rs. 50 lakhs has been paid in cash by the assessee which itself shows that these expenses are not genuine. Further, the Ld. D.R. submitted that even the salary paid to permanent employees was paid in cash and such salary was also paid in installments. Further, the Ld. D.R. submitted that the assessee has also not submitted any comparative chart of cash expenses as compared to the previous year, which also throws a serious shadow of doubt on the genuineness of such expenses incurred by the assessee in cash, amounting to Rs. 78,57,432/-.

10. We have heard the rival contentions and perused the material on record. We observe that the Counsel for the assessee has submitted voluminous details and supporting documents to prove the genuineness of expenses in respect of additions which were made by the Assessing Officer. Accordingly, we are of the considered view that the assessee has been able to make out a prima facie case in support of expenses claimed by the assessee in the return of income. The Counsel for the assessee is also submitted a comparative chart, seeking to justify the reason for increase in expenses during the impugned assessment year. Further, we observe that the assessee could not produce these documents either before the Assessing Officer or before the CIT(A) for their

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consideration. Accordingly, in the interest of justice, the matter directed to be restored to the file of Ld. A.O. for de-novo consideration and with a view to analyze the details of these expenses alongwith supporting documents and thereafter, after taking into consideration the evidences / supporting documents filed by the assessee, pass appropriate orders in accordance with law.

11. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on	12/08/2024
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Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 12/08/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रहित/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)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad