

IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH, PUNE

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER  
AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

**आयकर अपील सं. / ITA No.455/PUN/2024**

**निर्धारण वर्ष / Assessment Year: 2018-19**

Income Tax Officer, Ward-1, Malegaon	बनाम / V/s.	Saroj Jain, Shahkeshwar Fabrics, 104, Tilak Road, Shaniwar Ward, Tilak Chowk, Malegaon-423203 Maharashtra PAN : AEBPJ4112K
.....अपीलार्थी / Appellant		.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod S. Shingte  
Revenue by : Shri Ajay Kumar Keshari

सुनवाई की तारीख / Date of Hearing : 02.09.2024

घोषणा की तारीख / Date of Pronouncement : 04.09.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the appellant directed against the order of National Faceless Appeal Centre, Delhi dated 10.01.2024 passed u/s 250 of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) for the assessment year 2018-19.

2. Briefly, the facts of the case are that the respondent-assessee is an individual engaged in the business of Trading in Fabrics etc. under the name and style “M/s. Shankeshwar Fabrics”. The respondent-assessee

filed the Return of Income for the A.Y. 2018-19 on 21.10.2018 declaring total income of Rs.5,77,860/-. Against the said return of income, the assessment was completed by the Assessing Officer (AO) vide order dated 28.04.2021 passed u/s.143(3) r.w.s.144B of the Act. While doing so, the AO made addition of unsecured loans of Rs.16,39,08,187/- received from 12 parties, details of which are extracted on pages 3 & 4 of the assessment order for alleged failure of the respondent-assessee to prove the identity, creditworthiness of the parties and genuineness of the transactions.

3. Being aggrieved by the above addition, an appeal was filed before the CIT(A)/NFAC who vide impugned order after calling the remand report from the AO deleted the addition by holding that the respondent-assessee had discharged the onus lying upon him by providing the identity, creditworthiness of the creditors.

4. Being aggrieved, the Revenue is in appeal before the Tribunal in the present appeal.

5. The Id. CIT-DR for the Revenue submits that the NFAC was not justified in deleting the addition made on account of unsecured loans and interest thereon as even during the assessment proceedings, the respondent-assessee had failed to prove the identity, creditworthiness of the creditors and genuineness of the transactions. It is further contended that mere filing of the confirmation letters does not prove the genuineness of the transactions.

6. On the other hand, the Id. Authorized Representative for the respondent-assessee submits that entire loans received from the creditors were squared off during the year which clearly establishes the genuineness of the transactions. The respondent-assessee has running accounts with the loan creditors and there are several transactions of

receipts and payments of money. Therefore, no interference in the order passed by the NFAC is called for.

7. We heard the rival submissions and perused the material on record. The issue in the present appeal is whether the NFAC was justified in deleting the addition made on account of unsecured loans received from the loan creditors of Rs.16,39,08,187/-. From the perusal of the assessment order, it would reveal that the AO made addition on account of sundry creditors for the failure of the respondent-assessee to prove the identity, creditworthiness of the loan creditors and genuineness of the transactions. During the course of proceedings before the NFAC, the respondent-assessee had filed certain evidences in the form of confirmation letters of the parties, bank account statements, acknowledgement of filing of returns, balance sheet along with relevant annexures etc. The NFAC had called for remand report from the AO, the AO reiterated the same view. After calling of the remand report from the AO had deleted the addition by holding that the respondent-assessee had discharged the onus cast upon him by proving identity, creditworthiness of the creditors and genuineness of the transactions.

8. We had carefully perused the order of the NFAC and find that the order of NFAC is bereft of factual discussion in respect of each party of the sundry creditors, as to how the ingredients of creditworthiness of the creditors and genuineness of the transactions had been satisfied. Further, there is nothing in the order of NFAC to show that the NFAC had considered the first proviso to section 68 which reads as under :

“(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and”

In the light of above discussion, we are of the considered opinion that the interest of justice would be met if the matter is restored to the file of Assessing Officer for denovo adjudication of the issues identity, creditworthiness of the sundry creditors and the genuineness of the transactions.

9. In the result, the appeal filed by the Revenue stands partly allowed for statistical purposes.

Order pronounced in the open court on 04<sup>th</sup> September, 2024.

Sd/-  
**S.S. GODARA**  
**JUDICIAL MEMBER**

Sd/-  
**INTURI RAMA RAO**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04<sup>th</sup> September, 2024

Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /  
DR 'B', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

//सत्यापित प्रति// True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune