

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

समक्ष श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य एवं श्री टी.आर. सेन्थिल कुमार, न्यायिक सदस्य के समक्ष।  
**BEFORE MRS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**  
**AND SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

आयकर अपील सं/ ITA No. 1803/Ahd/2017

निर्धारण वर्ष/Assessment Year: 2014-15

ACIT, Circle 2(1)(2), Ahmedabad	<b>बनाम</b> Vs.	Mahavir Tradeline Pvt. Ltd., I-448, Titanium City Centre Mall, 100 Ft. Anandnagar Road, Nr. Sachin Tower, Satellite, Ahmedabad-380015 PAN: AAGCM 0263 L
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
निर्धारिती की ओर से / Assessee by :		Shri Sudhir Mehta, AR
प्रत्यर्थी की ओर से / Revenue by :		Shri Kamlesh Makwana, CIT-DR

सुनवाई की तारीख/Date of Hearing : 20.06.2024

घोषणा की तारीख /Date of Pronouncement: 04.09.2024

**आदेश/ORDER**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER:**

Present appeal has been filed by the Revenue against the order of the learned Commissioner of Income-tax (Appeals)-2, Ahmedabad [hereinafter referred to as "CIT(A)" for short] dated 16.05.2017 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for the Assessment Year (AY) 2014-15.

2. Ground Nos. 1 & 2 raised by the Revenue read as under:-

*"1. The Ld. CIT (A) has erred in law and on facts in deleting the addition u/s 68 of IT Act amounting to Rs 21,98,40,805/-*

*2. The Ld. CIT(A) failed to appreciate that the assessee had failed to discharge the onus of proving the identity and genuineness of the loans."*

3. The Revenue, in the above grounds, has challenged the deletion by the Id. CIT(A) of the addition made by the Assessing Officer of Rs.21,98,40,805/- under Section 68 of the Act in respect of three cash creditors. The details of the cash creditors are noted in paragraph No. 2.3 of the Id. CIT(A)'s order as under:-

Sr. No.	Name and PAN No.	Address	Amount Rs.
1	<i>Titanium Investment</i>	<i>A-508, Infinity, Corporate Road, Prahladnagar, Ahmedabad-15</i>	19,88,95,407/-
2	<i>Nikshal Properties Pvt. Ltd.</i>	<i>308, Gold Sukh Complex, Behind Sapphire Complex, C.G. Road, Ahmedabad</i>	2,08,00,000/-
3	<i>U.V. Impex</i>	<i>I-448, Titanium City Centre Mall, Nr. Sachin Tower, Anandnagar Road, Satellite, Ahmedabad</i>	1,45,398/-
		<i>Total</i>	Rs.21,98,40,805/-

4. The Assessing Officer made the above addition for the reason that the assessee had not produced depositors' along with evidences of their identity and books of accounts. However, the same was deleted by the Id. CIT(A) noting that the addition made on account of credit balance of M/s. Nikshal Properties Pvt Ltd. of Rs.2.08 crores was the opening balance and no amount had been received from the said party during the year; and that in the case of M/s. Titanium Investment of Rs.19,88,95,407/-, the same was deleted noting that the assessee had sufficiently discharged its onus of proving the genuineness of the cash credit.

5. We have heard both the parties. The findings of the Id. CIT(A) deleting the addition made on account of cash credits from M/s. Nikshal Properties Pvt. Ltd. amounting to Rs.2.08 crores is contained in paragraph No. 2.8 of his order as under:-

*"2.8. Having considered the facts and submissions, it has been noticed that during the course of assessment proceedings the appellant has submitted annexure -B alongwith the submission letter dtd. 11.8.2016 to the AO which are the details of the opening balance, cash credits taken, repayments and closing balance in respect of all the above three parties. On going through the same it is noticed that in the case of Nikshal Properties Pvt. Ltd. there was opening balance of Rs.2,08,00,000/- as on 1.4.2013 and the same was repaid on different dates such as Rs.68 lakhs on 6.4.2013, Rs 65 lakhs on 10.4.2013 and Rs. 75 lakhs on 10.4.2013 which is verifiable from its ledger account and confirmation/contra account of the aforesaid party. Thereafter, there remained no closing balance in its ledger account on 31.3.2014. Since there was no new cash credits taken by the appellant from the said party during the year under consideration and only the opening balance as on 1.4.2013 was repaid in the year under consideration, hence no adverse inference could be taken in the year under consideration. Thus the addition made by the AO in respect of this party is uncalled for and hence the same is deleted."*

5.1 As is evident from the above, the Id. CIT(A) noted that the entire credit balance was the opening balance and no cash credit had been received from M/s Nikshal Properties Pvt. Ltd. during the year. That, in fact, the opening balance had been repaid during the year under consideration to the said party. The Id. CIT(A) has noted all these facts to have been demonstrated by the assessee to the Assessing Officer. The Id. DR was unable to point out anything to the contrary before us. In view of the same, we see no reason to interfere in the order of the Id. CIT(A) deleting the addition made of cash credits from M/s. Nikshal Properties Pvt. Ltd. amounting to Rs.2.08 crores, noting the same to be opening balance and not received during the year and, in fact, being repaid during the year.

5.2 With respect to the deletion of addition by the ld. CIT(A) of cash credits pertaining to M/s. Titanium Investment amounting to Rs.19,88,95,407/-, the same, we find, is dealt with at paragraph No. 2.9 of the order of the ld. CIT(A) as under:-

*“2.9. Now with regard to the party namely M/s. Titanium Investment, the appellant has submitted the confirmation of the said party along with contra account from the books of the said party besides its return of income for A.Y. 2014-15 filed on 25.11.2014 with ITO. Ward-5(2)(2). Ahmedabad, form No.3CB and form No.3CD with profit and loss account and balance sheet of the aforesaid party and bank statement highlighting the transactions made with the appellant etc. in the assessment proceedings to the AO vide its letter dtd. 6.12.2016 which has been confirmed by the AO also in the assessment order. It has been noticed that in the loans and advances head of the balance sheet of the aforesaid party the appellant has been shown as a debtor for a closing balance of Rs. 19,07,67,504/-. In other words, the loans and advances given to the appellant have been duly recorded in the books of accounts and balance sheet for the year under consideration of the aforesaid party. Moreover on verification of the bank account of the aforesaid party in Rajkot Nagrik Sahakari Bank, Ahmedabad Account No.048003800003556, it has been noticed that no immediate cash deposits before granting the loans to the appellant are found credited and therefore there is no suspicion about the sources of the deposits / loans given to the appellant. Since the aforesaid party had the PAN and therefore its identity is established. Further the bank statement of the aforesaid party has also been established highlighting the cash credit transactions with the party during the year under consideration which amply establishes the genuineness of the cash credits. Further the aforesaid party has also filed the return of income and regularly assessed to tax therefore there is no doubt on the sources of the deposits and creditworthiness. Since the appellant has discharged its onus, as per the provisions of Section 68 of the Act and therefore there is no doubt on the cash credits shown by the appellant in the name of the aforesaid party. Once primarily the requisite documents were submitted by the appellant to the AO and the AO had no doubts in respect to the aforesaid documents and no inquiry have been made to controvert the authentication of the same. Thus as per the judgment of Hon'ble Supreme Court in the case of M/s Orissa Corporation the primary onus cast upon the appellant is duly discharged and in these circumstances no addition in its hands is called for. Thus respectfully following the judgements and decisions of Hon'ble Courts briefly noted hereunder, the addition made by the AO in respect of this party namely Titanium Investment is not justified and hence the same is deleted.”*

5.3 As is evident from the bare perusal of the above, the Id. CIT(A) has recorded finding of fact of the assessee having submitted confirmation of the said party along with contra account from the books of the said party, the return of income of the said party for AY 2014-15 filed on 25.11.2014 with ITO, Ward-5(2)(2), Ahmedabad, Form No. 3CB and Form No. 3CD with profit and loss account and balance sheet of the said party and bank statement highlighting the transactions made with the assessee. All these were noted by the Ld.CIT(A) to be submitted to the Assessing Officer during assessment proceedings. The Id. CIT(A) has noted the Assessing Officer to have confirmed these facts in his assessment order. The Id. CIT(A) has also noted that there was no immediate cash deposits in the bank account of the said party before granting the loan to the assessee. Recording the above facts and basis the same, the Id. CIT(A) held that the documents sufficiently established the identity of the assessee, as also the genuineness of the cash credits and also the creditworthiness of the party. Finding so he deleted the addition made by the Assessing Officer on account of the cash credits received from M/s. Titanium Investment. The Id. DR was unable to controvert the above facts as noted by the Id. CIT(A), nor was he able to make out a case against the deletion of addition by the Id. CIT(A). In view of the same, we see no reason to interfere in the order of the Id. CIT(A) deleting the addition made on account of credits received by the assessee from M/s. Titanium Investment amounting to Rs.19,88,95,407/-.

5.4 In view of the above, the grounds of appeal Nos. 1 and 2 of the Revenue are dismissed.

6. Ground No.3 raised by the Revenue reads as follows:-

*“3. The Ld. CIT(A) has erred in law and on facts in deleting the G.P addition amounting to Rs. 77,93,20,660/-.”*

7. The Revenue in the above ground has challenged the order of the ld. CIT(A) deleting the addition made by the Assessing Officer of estimating profits earned by applying GP rate, amounting to Rs.77,93,20,660/-.

7.1 The facts relating to the issue are that the Assessing Officer had rejected the books of accounts of the assessee on the plea that the assessee had not reproduced the books of accounts, bills, vouchers etc. for verification. The Assessing Officer also observed that the assessee had not produced the Directors of the assessee company to explain and justify their income. Therefore, after rejecting the books of accounts of the assessee, the Assessing Officer estimated the profits of the assessee by applying the net profit rate of 5% to the total turnover of the assessee of Rs.15,60,64,13,205/-; thus, resulting in an addition of Rs.78,03,20,660/- being made to the income of the assessee by the Assessing Officer. The ld. CIT(A) found no merit in the act of the Assessing Officer of rejecting the books of accounts of the assessee and accordingly, therefore, deleted the addition made by the Assessing Officer by estimating the net profit of the assessee of Rs.78,03,20,660/-. The findings of the ld. CIT(A) in this regard are contained at paragraph Nos. 3.5 to 3.7 of his order as under:-

*“3.5. Having considered the facts and submissions, it has been noticed That during the year under consideration and in the preceding two years the appellant had shown the G.P. and N.P. rate as under :-*

	A.Y. 2014-15	A.Y. 2013-14	A.Y. 2012-13
G.P. rate	0.14%	0.12%	0.14%
N.P. rate	0.06%	0.06%	0.04%
Turnover	Rs.1560,64 crores	Rs.960.46 crores	Rs.472.41 crores

*It has been noticed that during the year under consideration the appellant has provided the requisite information to the AO and also submitted the explanation for low N.P. rate. The AO has not pointed out any specific detects/discrepancy so as to reject the books of accounts Invoking the provisions of Section 145 of the Act. No discrepancy in respect of any unaccounted / inflated purchases, unrecorded / understatement of sales or inflation of any expenditures etc. have been pointed out. As per the settled provisions of law, the books of accounts could only be rejected when it is found that the same are not correct and complete or the method of accounting adopted was such that true profits could not be deduced there from. However, the AO has not given any adverse findings in respect of the book results in the assessment order before rejecting the books of accounts.*

*3.6. It has been noticed that the AO straight way made the addition of the entire estimated N.P. rate of 5% of the turnover which worked out to Rs.78,03,20,660/- without granting the set off of the net profits of Rs.89,60,268/- disclosed in the profit and loss account for the year under consideration. In other words the addition to the extent of Rs.89,60,268/- is the double addition which is uncalled for furnished all the details of its business activities, details of purchase and sales, details of debtors and creditors, month wise details of purchase and sales, details of stock inward and outward, details of G.P. ratio and the N.P. ratio for last 3 years, details of advances received from the customers, details of unsecured loans obtained, details of all expenditures and other income, details of directors remuneration and commission expenses. details of last three years income-tax assessment orders, explanation regarding low N.P. rate etc. The appellant further submitted that before rejecting the books of accounts the AO had to record its objective satisfaction highlighting the defects in the books of accounts and invoking the provisions of Section 145 of the Act. In support it has relied upon various judgements of Hon'ble courts: It was also submitted that AO was not found any material detect in the books of accounts. As per the provisions of IT Act for rejecting the books of account it was the onus on the AO to prove that either the book of account maintained by the assessee was not correct and complete method of accounting adopted if such that true profits cannot be deduced therefrom. It has also submitted that the books of account cannot be rejected on the basis of immaterial and trivial mistakes for which reliance have been placed on the judgments. It has also been submitted that the appellant was subject to audit and the auditor has duly verified all the transactions relating to purchase and sales, income and expenditure and balance sheet and have issued unqualified audit report which was before the AO in the assessment proceedings from which no doubts have been raised by the AO. It has also been pleaded that even in the cases of estimation income the best guiding factor is*

*the GP or N.P. rates of the appellant itself in the preceding years which also the AO has not considered.*

*3.7. It has also been noticed that during the year the turnover has substantially been increased as compared to the preceding two years turnover. Further there is slight increase in the G.P. rate with no change in the N.P. rate in the year under consideration as compared to the preceding year. It has also been noticed that in appellant's own case for A.Y. 2013-14, assessment u/s.143(3) has been completed by the AO without any addition and rejection of books of accounts. In other words, the book results shown by the appellant in A.Y. 2013-14 have been accepted without any rejection. Considering the history of A.Y. 2013-14 and 2012-13, the book results shown by the appellant in the year under consideration are comparable in respect of G.P. and N.P. rate. However, for want of further verifications and to plug the leakage of revenue, it would be fair and reasonable to make the lumpsum addition of Rs.10 lakhs in the income of the appellant and hence the addition to the extent of Rs. 10 lakhs is confirmed addition. Relief is granted to the balance addition."*

7.2 The order of the Id. CIT(A) reveals that he noted the fact that the assessee had provided all information to the Assessing Officer of purchase, sale , expense and had also submitted explanation for low NP rate and he also noted that the Assessing Officer had not pointed out any specific defects or discrepancies so as to reject the books of accounts of the assessee by invoking the provisions of Section 145 of the Act. He noted that despite the assessee producing all requisite information and details during assessment proceedings, the Assessing Officer did not point out any discrepancy either in respect of unaccounted / inflated purchases, unrecorded / understatement of sales or inflation of any expenditures. The above findings of the Id. CIT(A) have remained uncontroverted before us by the Revenue. The Id. DR has been unable to demonstrate from the order of the Assessing Officer any specific defect noted by him in the purchase/sales/expenditure booked by the assessee despite all information and details in this regard filed by the assessee. In view of the same, we see no reason to interfere in the order of the Id. CIT(A), holding the rejection of books of accounts by the Assessing Officer to be not

in consonance with the law. Accordingly, we find no infirmity in the order of the Id. CIT(A) deleting the addition made by the Assessing Officer by estimating the net profit of the assessee.

7.3 Ground of appeal No. 3 raised by the Revenue is dismissed.

8. In effect, the appeal of the Revenue is dismissed.

**Order pronounced in the open Court on 04/09/2024 at Ahmedabad.**

Sd/-

**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**  
(टी.आर. सेन्थिल कुमार, न्यायिक सदस्य)  
Ahmedabad; Dated 04/09/2024

*\*btk*

Sd/-

**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**  
(अन्नपूर्णा गुप्ता, लेखा सदस्य)

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)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , /DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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