

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD
BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER
AND
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

**ITA No.414/Ahd/2022
Assessment Year : 2016-17**

Vallabh Pesticides Limited Anand-Sojitra Road GIDC, V.U. Nagar Anand. PAN : AAACV 6423 H	Vs.	DCIT, Circle-Anand Anand.
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(Applicant)		(Respondent)
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Assessee by :	Shri S.N. Divetia, AR and Shri Samir Vora, AR
Revenue by :	Shri Prothviraj Meena, CIT-DR

सुनवाई की तारीख / **Date of Hearing** : **16/10/2024**
घोषणा की तारीख / **Date of Pronouncement**: **16/10/2024**

आदेश / O R D E R

PER DR. BRR KUMAR, ACCOUNTANT MEMBER

Present appeal has been filed by the assessee against order passed by the Id.Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "Ld.CIT(A)"] dated 06.09.2022 passed by invoking provisions of section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short]for the Asst.Year 2016-17.

2. The assessee has taken up for adjudication the following relevant grounds i.e. ground no.1 and 2 raised in the appeal:

"1. The Ld.CIT(A) has erred in law and on facts in upholding the addition of Rs.3,00,00,000/- under section 68 on the grounds that the appellant has failed to prove financial capacity of the lender and genuineness of the transaction. The Ld.CIT(A) failed to take cognizance of the fact that in primary discharge of the onus, the appellant has submitted confirmation letter, copy of ITR of lender and its audited accounts for the relevant year.

1.1 *The Ld.CIT(A) further erred in law and on facts in not considering the fact that the transactions were carried out through banking channels.*

1.2 *The Ld.CIT(A) erred in law and on facts in appreciating various decisions placed before him related to section 68 of the Act.*

1.3 *The Ld.CIT(A) also failed to take cognizance of the paucity of time and short span of the effective assessment proceedings which were hurriedly concluded in violation of principles of natural justice.*

1.4 *In light of the above, the confirmation of addition of Rs.3,00,00,000/- u/s.68 of the Act by the Ld.CIT(A) may kindly be deleted.*

2. *The Ld. CIT (A) erred in law and on facts in confirming addition of Rs.1,09,22,153/-on account of banking entries and undisclosed bank accounts. The Ld.CIT(A) failed to take cognizance of the fact that banking entries worth Rs.1,08,80,025/- were nothing but transfer from one Bank account to another Bank account i.e. duplication, salary payment to employees as well as gifts received. He failed to take cognizance of the fact that the Ld.AO has added entire credit entries disregarding above facts, which ought to have been deleted.”*

3. Brief facts of the case are that the assessee is a closely held company engaged in the business of manufacturing of pesticides and insecticides. The assessee filed its return of income for the Asst.Year 2016-17 on 17.10.2016 declaring total income at NIL. The AO made addition of Rs.3.00 crores on account of loan received from an entity vi. M/s.Yankee Management Services P.Ltd. (“YMSPL” for short). The AO has also made addition of Rs.1,09,22,153/- being unexplained credits in the bank account of the assessee.

4. At the outset, the ld.counsel for the assessee submitted that the issue of addition of Rs.1,09,22,153/- may be remanded to the AO, as further evidence on this issue would be submitted for the completeness. The ld.DR submitted that since the AO has not afforded opportunity to examine the details that were being submitted, the same may be remanded to the AO for examination afresh.

With regard to the unsecured loan received from YMSP, the ld.counsel for the assessee submitted that all the evidences have been

furnished before the AO and without bringing any cogent reasons, the addition has been made.

Rebutting the arguments of the ld.counsel for the assessee, the ld.DR argued that the payer of the loan was having a very meagre resources and the notices issued by the AO have been received back, as the payer was not existing at the address given.

Rebutting the arguments of the ld.DR, the ld.counsel for the assessee submitted that the AO could have ascertained the correct address from the documents such as, PAN, ITR and MCA details. He also asserted that loan amount of Rs.80 lakhs has been repaid during the financial year 2017-18. On a query whether remaining Rs.2.2 crores has been repaid, atleast by 2024, the ld.counsel for the assessee submitted that, at this juncture he did not have any details about the repayment.

5. We find that the assessee has not discharged primary onus casted upon it to prove identity, genuineness and credit worthiness of the loan received. Keeping in view these facts, to have a holistic examination of the view, the entire matter is remanded to the AO for adjudication afresh after providing reasonable opportunity of hearing heard to the assessee. The assessee to provide all the relevant details as and when called for to complete the assessment *de novo* by the AO.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Court on 16th October, 2024 at Ahmedabad.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

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Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER