

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

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.856/Ahd/2024
(Assessment Year: 2011-12)

Mukesh Narpatlal Shah, C-201, Dev Archan Flats, Opp. Kochrab Ashram, B/h. Bony Travels, Paldi, Ahmedabad-380007	Vs.	Income Tax Officer, Ward-2(1)(2), Ahmedabad
[PAN No.AMKPS9584P]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Sudhir Mehta, Advocate
Respondent by:	Shri Prothviraj Meena, CIT-DR & Shri Waghe Prasad Rao, S.R.-DR

Date of Hearing	17.10.2024
Date of Pronouncement	17.10.2024

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 dated 26.02.2024 passed for A.Y. 2011-12.

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

“1. The Learned CIT(A) has erred in law and facts to confirm the additions made by the assessing officer on account of unexplained cash credit u/s 68 of the act of Rs. 96,67,26,529/- on protective basis.

2. The Learned CIT(A) and Assessing Officer has failed to appreciate that the appellant simply made introduction to all the three parties in the bank to open an account. The appellant neither the director nor the proprietor of any of the entities.

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3. *The Learned CIT(A) has erred in law to confirm the assessment order which is bad in law and on facts and against the natural justice.*

4. *The Learned ITO has initiated penalty proceedings 271(1)(c) when there is no concealment of income or furnishing inaccurate particulars of income. It is submitted that the additions made in the assessment order cannot be held as concealment of income.*

5. *The appellant craves leaves to add, alter and or to amend all or any of the grounds of the appeal.*

6. *Even otherwise, the impugned orders are illegal, bad in law.”*

3. At the outset, both the parties have not disputed the fact that the addition in the case of the assessee has been made on protective basis. The appeal of the assessee for the earlier Assessment Year 2010-11 stands adjudicated by the Coordinate Bench of Tribunal in ITA No. 477/Ahd/2019 for A.Y. 2010-11 vide order dated 21.02.2024. It was submitted that the issue involved in A.Y. 2011-12 is similar to the issue which stands adjudicated by the order of Coordinate Bench of the ITAT. Hence, for the sake of ready reference the relevant part of the above mentioned order is reproduced as under:

“7. *We have heard both the parties and perused the material available on record. It is pertinent to note that the Assessing Officer made the addition prima facie and with the main reason that the assessee was the introducer in the bank accounts opening form for these three entities, but for M/s.Lunia Finlease Ltd., it was categorically found that the account was opened on the application filed by the said three Directors of the said companies. In case(s) of M/s.Shrichal Corporation and M/s. Ramdev Marketing, the same was applied for opening of bank accounts and PAN Card, Driving Licence and Election Card have been submitted for KYC documents. Shri Mukesh N. Shah, i.e. assessee has signed as introducer for opening the bank account only and the Assessing Officer, at no point of time, has pointed out that the sale amount was, in fact, of the assessee's amount which is lying in these three accounts. The e-mail submitted by the Ld.DR at the time of hearing categorically mentions that the demand in case of M/s.Shrichal Corporation was reflected in the system for AY 2011-12 for unexplained credits in the bank account. As regards AY 2010-11 is concerned, no records were found. Similarly, in case of M/s.Ramdev Marketing no demand of the assessment was found, but this will not prove the case of the Revenue that the assessee is liable to the*

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additions which are actually the additions relating to those two parties. The Department, at no point of time, has pointed out as to the credit entries appearing in all these three entities are belonging to the assessee and, therefore, protective addition cannot be held as substantive addition when the Department has not taken proper cognizance in the cases, where the substantive addition should have been done. The CIT(A) has categorically made the observation that the Assessing Officer has no evidence whatsoever that the accounts of these three companies belonged to assessee. In fact, where there was a doubt, the CIT(A) has categorically made protective addition to the extent of Rs.1,50,000/- on account of M/s.Lunia Finlease Ltd. Thus, there is no need to interfere with the finding of the CIT(A). The appeal of the Revenue is dismissed.”

4. In the absence of any change in the factual matrix and the legal proposition, following the earlier order of the ITAT the appeal of the assessee is hereby allowed.

5. In the result, the appeal of the assessee is allowed.

This Order is pronounced in the Open Court on 17/10/2024

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Ahmedabad; Dated 17/10/2024

TANMAY, Sr. PS

TRUE COPY

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, 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