

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

**BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER &  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 500/Ahd/2024

(निर्धारण वर्ष / Assessment Year :2017-18)

<b>RajendraKhodidas Patel</b> Ambica Bhuvan, Baliya Vas, Amraiwadi Road, Ahmedabad, Gujarat - 380026	<b>बनाम/</b> Vs.	<b>DCIT</b> Circle -2(1)(1), Ahmedabad
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. : AASPP5754G</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

अपीलार्थी ओर से/Appellant by :	ShriParin S Shah, A.R.
प्रत्यर्थी की ओर से/Respondentby:	Shri Rignesh Das, Sr. DR

<b>Date of Hearing</b>	24/10/2024
<b>Date of Pronouncement</b>	06/11/2024

**ORDER**

**PER SHRINARENDRA PRASAD SINHA, AM:**

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi, (in short ‘the CIT(A)’), dated 10.01.2024 for the Assessment Year 2017-18.

2. There was delay of 9 days in filing of this appeal. The assessee has filed an affidavit explaining that the email ID registered in the e-filing portal was of his previous consultant who did not timely inform him about the order passed by the NFAC. Further that the assessee had requested for adjournment on the last day of hearing and was expecting that the matter would be adjourned. Due to these reasons, there was a delay of 9 days in filing of this appeal. The Ld. Sr.DR also did not

object to the condonation of this delay. Considering the explanation of the assessee, the delay of 9 days in filing of this appeal is condoned.

3. The brief facts of the case are that the assessee is an individual engaged in trading business of grains. The return of income for A.Y. 2017-18 was filed on 27.10.2017 disclosing total income of Rs.50,14,450/-. The case was reopened under Section 147 of the Income Tax Act, 1961 (in short 'the Act') on the basis of specific information received from Investment Wing, Ahmedabad. In the course of reopened proceeding, the assessee had filed return of income in response to notice u/s.148 of the Act, but thereafter no compliance was made on any occasion. Therefore, the AO had passed order u/s.147 r.w.s. 144 of the Act on 22.03.2022 at total income of Rs.1,80,98,547/-. An addition of Rs.1,14,00,000/- was made u/s.68 of the Act in respect of unexplained cash credit pertaining to unsecured loan. Further, the interest of Rs.16,81,482/- in respect of unsecured loan was also disallowed.

4. Aggrieved with the order of the AO, the assessee had filed an appeal before the First Appellate Authority, which has been decided vide the impugned order and the appeal of the assessee was dismissed.

5. Now, the assessee is in second appeal before us. The following grounds of appeal have been taken in this appeal:

*"1. The order passed by lower authorities is bad in law and required to be quashed.*

2. *Ld. NFAC erred in law and on facts in dismissing appeal ex-parte despite of adjournment request filed by the appellant.*
3. *Ld. NFAC erred in law and on facts in confirming action of AO reopening of assessment u/s 148 of the Act.*
4. *Ld. NFAC erred in law and on facts in confirming addition of Rs. 1,14,00,000/- as unexplained cash credit u/s 68 of the Income Tax Act.*
5. *Ld. NFAC erred in law and on facts in making addition of Rs. 16,81,482/-u/s 69C of the Income Tax Act on account of interest payment to unsecured loan to parties.*
6. *Ld. NFAC erred in law and on facts in taxing addition at special rate u/s 115BBE of Income Tax Act.*
7. *Charging of Interest u/s 234A,234B,234C are unjustified.*
8. *Initiation of penalty u/s 271(1)(c) of the Act is unjustified.”*

6. Shri Parin Shah, Ld. AR appearing for the assessee submitted that the Ld. CIT(A) had passed the order ex-parte and dismissed the appeal of the assessee. He explained that the assessee had sought adjournment before the Ld. CIT(A) on last three dates of hearing for the reason that he was in the process of collecting certain additional evidences. However, the Ld. CIT(A) did not allow the adjournment as sought and decided the matter ex-parte and dismissed the appeal. The Ld. AR explained that the AO had made addition in respect of unsecured loan of Rs.48 Lakhs taken from Virendra Kumar Rasiklal Gandhi and another loan of Rs.66 Lakhs taken from Vasant NatvarlalDarji. He explained that since the matter was old, the assessee was in the process of collecting confirmations and other relevant documents from the loan creditors. It was for this reason that no proper compliance could be made before the AO as well as the Ld. CIT(A). The Ld. AR submitted that in the meanwhile the assessee has collected certain information in respect of the loan transactions and accordingly made an application dated 24.10.2024 for furnishing additional evidences. The Ld. AR

requested that the additional evidences go to the core of the addition and are relevant to determine the correctness of the addition as made by the AO. Therefore, these additional evidence may kindly be admitted and the matter may be set aside to the AO to examine the evidences in right perspective. The Ld. AR further submitted that the entire loan amount from the two persons was old outstanding and no fresh loan was taken during the year. Therefore, no addition was called for in the current year.

7. Per contra, Shri Rignesh Das, the Ld. Sr. DR had no objection if the matter was set aside to the AO to verify the old outstanding's of the loan and to examine the additional evidences as brought on record by the assessee.

8. We have carefully considered the rival submissions. The case was reopened u/s.147 of the Act to examine the unsecured loan taken by the assessee from Virendra Kumar Rasiklal Gandhi and Vasant Natvarlal Darji totaling Rs.1,14,00,000/-. As per the information available with the AO the assessee had obtained accommodation entries in the form of unsecured loans. In the course of assessment, neither any compliance was made by the assessee nor there was any response to enquiry made u/s.133(6) of the Act by the AO from the two loan creditors. Therefore, the AO had made the addition in respect of unsecured loan of Rs.1.14 crores and also disallowed the interest in respect of these loans. Before the Ld. CIT(A), no compliance was made by the assessee. From the additional evidences filed by the assessee, it is seen that there was opening balance of Rs.41,99,652/- in respect of Virendra Kumar Rasiklal

Gandhi. Similarly, opening balance in respect of Vasant NatvarlalDarji was Rs.57,54,355/-. Therefore, the additional evidence as filed by the assessee have a bearing on the correctness of the addition in respect of unsecured loan, as made by the AO. The assessee has submitted that these additional evidences are third party documents and were not readily available with the assessee. Considering the explanation of the assessee, **we deem it proper to admit the additional evidences filed by the assessee and set aside the matter to the Jurisdictional AO to examine the correctness of the additional evidences as filed.** The AO is directed to re-decide the matter in view of the additional evidence as brought on record by the assessee after necessary verification. A copy of the additional evidence is directed to be forwarded to the JAO along with this order. The AO is also directed to allow a proper opportunity of being heard to the assessee. Further, the assessee too is directed to make necessary compliance before the AO and not to seek unnecessary adjournment. In case the assessee doesn't make compliance before the AO, he will be free to decide the matter on merits after examining the additional evidences as brought on record.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**This Order pronounced on 06/11/2024**

Sd/-  
(T.R. SENTHIL KUMAR)  
**JUDICIAL MEMBER**  
Ahmedabad; Dated 06/11/2024  
*S. K. SINHA*

Sd/-  
(NARENDRA PRASAD SINHA)  
**ACCOUNTANT MEMBER**

**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