

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT

I.T.A. No.346/Ahd/2024
(Assessment Year: 2017-18)

Shree Durga Oil Mill, Nr. Grain Market Yard, N.H. No.8, Bavla-382220, Dist. Ahmedabad, Gujarat PAN : AAGFS 9419 M	Vs.	The DCIT, Circle-3(2), Ahmedabad <i>Present jurisdiction</i> Circle(3)(1)(1), Ahmedabad
(Appellant)	..	(Respondent)

Appellant by :	Shri Bhadresh Gandhakwala, AR / Shri Dhinal Shah, AR
Respondent by:	Shri Ketan Gajjar, Sr DR

Date of Hearing	14.11.2024
Date of Pronouncement	14.11.2024

ORDER

This appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi (hereinafter referred to as "CIT(A)" for short), dated 22.12.2022 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2017-18.

2. The grounds of appeal taken by the assessee are as under:-

"1. The learned CIT(A) has erred in confirming the addition of Rs.1,60,300/- being interest based on Form No. 26AS in as much as the assessee firm has actual paid interest to the lender and that the lender inadvertently deducted the TDS, the same cannot be treated as income.

2. The learned CIT(A) has erred in confirming the addition of Rs.1,92,897/- by mixing the loan account and business transaction account in as much as both the transactions are independent and

- 2-

therefore the disallowance of Rs.1,92,897/- under Section 36(1)(iii) is not proper.”

Issue No. 1 : Addition of Rs.1,60,300/- on account of interest not included in the income

3. The undisputed facts related to the issue are as under:-

- The Assessee paid interest to Shree Ashtalaxmi Agro Industries on the loan taken from them;
- Shree Ashtalaxmi Agro Industries wrongly deducted TDS and the Assessee claimed the credited TDS;

Under these circumstances, there are two ways to reconcile:-

- a) Shree Ashtalaxmi Agro Industries files a revised TDS return, or
- b) Shree Ashtalaxmi Agro Industries adjusts the amount of TDS deducted.

3.1 Now, the assessee claims the TDS. And the Revenue claims that in the absence of offering of corresponding amount to tax, no credit for the TDS can be given. Notwithstanding that the Revenue made addition of the interest of Rs.1,60,300/-, which in fact has been paid to Shree Ashtalaxmi Agro Industries. As the facts reveal that the assessee has not received any interest rather paid interest to Shree Ashtalaxmi Agro Industries, the addition made by the AO cannot be sustained. Appeal of the assessee on this ground is allowed.

Issue No. 2 : Addition of Rs.1,92,897/- on account of interest on loan received from M/s. Somabhai Chandulal & Co.

4. The Assessee paid interest of Rs.1,92,897/- on the loan received from M/s. Somabhai Chandulal & Co. The AO disallowed the interest on the

- 3-

grounds that the said firm was a debtor and the Assessee should have recovered the debts instead of obtaining the loan inasmuch as it is a businessman prudence how to run the business.

4.1 I hold that as long as the factum of receipt of loan is not disputed, no disallowance of the interest paid on loan is called for, even if any other business transactions are effected with the lender party. In view of the above, this ground of appeal raised by the assessee is allowed.

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

The order is pronounced in the open Court on 14.11.2024

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

Ahmedabad; Dated 14/11/2024

btk

आदेश की प्रतिलिपि ँ ग्रेषित / 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,

True Copy

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad