

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

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 210/Ahd/2024  
(Assessment Year: 2017-18)

Vinodchandra Dahyabhai Darji, Prop. Laxmi Kirana Stores, Opp. Janpath Hotel, Sanand Road, Sarkhej, Ahmedabad Gujarat-382210 [PAN : AASPD 3857 A]	Vs.	Income Tax Officer, Ward 3(3)(5), Ahmedabad
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Vivek Chavda, AR
<b>Respondent by:</b>	Adjournment application filed

<b>Date of Hearing</b>	03.12.2024
<b>Date of Pronouncement</b>	03.12.2024

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-**

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 20.11.2023 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 Assessee has taken following grounds of appeal:-

*"1.1 The order passed u/s. 250 on 20.11.2023 for A.Y.2017-18 by NFAC, Delhi upholding the addition of Rs.73,22,598 made by AO is wholly illegal, unlawful and against the principles of natural justice.*

*1.2 The Ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the eccentric facts and evidence available with regard to the impugned additions.*

1.3 The Ld. CIT(A) has grievously erred in law and on facts in not carrying out any inquiry with regard to the applicability of the provisions of Income tax Act and thereby violated the principle of natural justice. Therefore, the appellant shall be granted opportunity to produce additional evidences.

2.1 The Ld. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs.31,52,098 being estimation of profit at 8%.

2.2 That the Ld. CIT(A) ought not to have upheld addition of Rs.31,52,098 by estimating the net profit at 8% of Rs.3,94,01,230 without considering the eccentric facts of the case.

2.3 The Ld. CIT(A) has erred in law and or on facts in upholding the application of Section 145(3).

2.4 That the Ld. CIT(A) ought not to have upheld the rejection of books u/s 145(3) without establishment of any defect in the books.

3.1 The Ld. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs.41,70,500 of Unsecured Loan u/s 68 being cash credit.

3.2 That the Ld. CIT(A) ought not to have upheld addition of Rs.41,70,500 of Unsecured loan.

3.3 The Ld. CIT(A) has erred in law and or on facts in upholding the addition of Rs.41,70,500 being unsecured loans even when the books of accounts were rejected Section 145(3).

3.4 Without prejudice to the above grounds and in the alternative, the Ld. CIT(A) has failed to appreciate that when the books of accounts are rejected under section 145(3) than no addition or disallowance can be made pertaining to books of accounts.

4.1 The Ld. CIT(A) has grievously erred in law and or on facts in upholding the invocation of provisions of Section 115BBE.

4.2 The Ld. CIT(A) as well as the AO ought to have directly trigger the provisions of Section 115BBE.

4.3 The Ld. CIT(A) has failed to appreciate that levy of section 115BBE is not automatic. The Appellant must be granted the specific opportunity before triggering the provisions of section 115BBE.

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*5.1 The Ld. CIT(A) has grievously erred in law and or on facts in not granting opportunity of being heard via video conferencing.*

*5.2 The Ld. CIT(A) has failed to appreciate that granting opportunity of being heard via video conferencing facility is mandatory in the new regime of Faceless appeal process.*

*5.3 The Ld. CIT(A) ought to have granted opportunity of being heard via videoconferencing facility upon specific request by the appellant."*

3. The Revenue filed adjournment. At Ground No. 5.1, the assessee pleaded that the assessee was not given an opportunity of being heard by the ld. CIT(A). We find that the assessee is a wholesale trader of products of Parle Biscuits Ltd's brand and had a turnover of Rs.3.95 crores for the year under consideration. The assessee filed return of income declaring total income of Rs.6,42,140/- and had cash deposit of Rs.2.83 crores during the year. The ld. CIT(A) determined addition @ 8% of the gross profit, without according any opportunity of being heard. However, since the opportunity of being heard has not granted to the assessee, in the interest of justice, the matter is remanded to the file of the ld. CIT(A) to pass order afresh after obtaining the receipt of Rs.5000/- paid by the assessee towards "Prime Minister's National Relief Fund".

4. In the result, the appeal of the Assessee is allowed for statistical purposes.

**The order is dictated and pronounced in the open Court on 03.12.2024**

Sd/-

Sd/-

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

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

Ahmedabad; Dated 03/12/2024

btk

**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,

True Copy

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