

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'G' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.5302/Mum/2024
(Assessment Year :2018-19)**

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| Gauranga Papers LLP 414, Janki Center Premises CHSL, Shah Industrial Estate Veer Desai Road Andheri(W) Mumbai- 400 053 | Vs. | Income Tax Officer 24(1)(1), Lalbaug Mumbai |
| PAN/GIR No.AANFG7870P | | |
| (Appellant) | .. | (Respondent) |

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| Assessee by | Shri Vimal Punmiya- & Shri Rajesh Dali- |
| Revenue by | Shri Prashant Mahajan |
| Date of Hearing | 02/12/2024 |
| Date of Pronouncement | 10/12/2024 |

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 21/08/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) for the A.Y.2018-19.

2. The assessee is mainly aggrieved by the addition of Rs.1,95,90,000/- made u/s.68 and disallowance of interest of Rs.17,11,593/- made by the ld. CIT(A). Besides, assessee has

also challenged the quantum of interest charged u/s.234A and 234B.

3. The brief facts are that assessee is a limited liability partnership engaged in the business of trading and printing of kraft papers. It has filed its return of income at Rs.99,74,420/- on 10/10/2018. The return of income was selected for limited scrutiny on the ground that there was a large increase in unsecured loans during the year and substantial loan taken and loan repaid. During the course of assessment proceedings ld. AO issued a detailed show-cause notice as to why unsecured loan amounting to Rs.1,95,90,000/- should not be treated as 'unexplained cash credit' u/s.68.

4. In response, assessee submitted its reply giving the loan confirmation, bank statement of the creditors to prove the genuineness of the loan etc. which fact has been noted at page 5 of the assessment order. The ld. AO also issued notice u/s. 133(6) to 23 parties from whom assessee has taken loan, out of which 21 parties had given their replies which he has dealt in his assessment order from pages 6-14 of the assessment order. Again, assessee vide reply dated 24/03/2021 had explained each and every date of loan, mode or receipt of loan, date of repayment of loan alongwith various remarks, however, ld. AO rejected assessee's contention holding that these parties do not have creditworthiness. His relevant observation reads as under:-

"The response of the assessee has been perused but not found tenable. The assessee was requested to furnish documentary evidence to substantiate the creditworthiness of the parties [Loan

Creditors] but the assessee only reiterated that the transactions have been done through banking channel and are genuine. Merely showing that transactions were carried out through Banking channel in the facts and circumstances of the case is not sufficient to prove the creditworthiness of the parties in the matter. This entire edifice through which the assessee claimed to have received huge loan from the loan creditors, who does not have the creditworthiness to extend such loan, within a very shorts span of time, fails the tests of both genuineness and human probabilities. In the case of Sumati Dayal Vs CIT (214) ITR 801), the apex court propounded the principle of human probabilities and applying it in that case held that whether apparent is real is to be decided on the basis of incriminating circumstances. This raises the question whether the apparent can be considered as real. As laid down by this Court, apparent must be considered real until it is shown that there are reasons to believe that the apparent is not the real and that the taxing authorities are entitled to look into the surrounding circumstances to find out the reality and the matter has to be considered by applying the test of human probabilities. Reliance is also placed on the decision of the Apex court in the case of Durga Prasad More Vs CIT wherein the principle of human probabilities was relied upon by the court in deciding the case in favour of revenue.

5. Thereafter, he has quoted various judgments and stated that amount received from 23 parties for sums aggregating to Rs.1,95,90,000/- as 'unexplained cash credit'. The details of these parties tabulated by the ld.AO reads as under:-

| SI.No. | Name | PAN | Return Income for the A.Y. 2018-19 | Loan Received by the assessee during the year |
|--------|------------------|------------|------------------------------------|---|
| 1 | Amit Monesh Vora | BAOPV7873F | 299130/- | 5,00,000 |
| 2 | Anupama Dayalal | CLIPS0677J | 272530/- | 10,00,000 |

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| 3 | Arpit Mayur Jota | BDYPJ5352C | 275470/- | 10,00,000 |
| 4 | Ashwtn J Vora (HUF) | AABHV7752H | 259230/- | 5,00,000 |
| 5 | Badhiben Kantilal Sanghavi | AOZPS9976A | 318070/- | 11,00,000 |
| 6 | Bharatkumar Maskara | AGNPM8828R | 164020/- | 3,00,000 |
| 7 | Gauranga Paper Corporation | AAFHG0367K | NO ITR submitted, this PAN is also shown in another name Gopal Tejpal Khetan HUF | 21,00,000 |
| 8 | Girish Chunilal Sheth | ANSPS2286B | 349720/- | 3,00,000 |
| 9 | Harsha Mayur Jota | AMJJP5662N | 299170/- | 4,00,000 |
| 10 | Jayshree Rajesh Sangavi | EDCPS7212D | 276240/- | 5,00,000 |
| 11 | Jayshree Satish Kubadia | CDCPK1422P | 162510/- | 14,00,000 |
| 12 | Kailash Chandra Maskara | AAGPK980- 4L | 288370/- | 22,50,000 |
| 13 | Kailash Chandra Maskara HUF | AADHK1341K | 237610/- | 11,25,000 |
| 14 | Kantadevi Torka | AABPT5633P | 321140/- | 9,90,000 |

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| 15 | Mamta Kamlesh Gupta | BBAPG7363Q | 327680/- | 6,00,000 |
| 16 | Murarilal P Bajaj | AACP6023A | 534000/- | 6,00,000 |
| 17 | Pushkarlal Maskara HUF | AAAHP1295A | 230700/- | 14,75,000 |
| 18 | Santaben Suresh | CAJPK566GF | 283010/- | 7,50,000 |
| 19 | Sheoprasad SedmalTorka HUF | AAAHT1068H | 227660/- | 3,00,000 |
| 20 | Sonu Vikas Torka | AJWPT6240N | 276760/- | 4,00,000 |
| 21 | Suresh MaganlalKubadia HUF | AALHK2733D | 235760/- | 10,00,000 |
| 22 | Twisha Enterprises LLP | AAGFT4721R | 89780/- | 5,00,000 |
| 23 | Vikas L Torka HUF | AAGHV5497N | 182430/- | 5,00,000 |
| Total | | | | 1,95,90,000 |

6. Ld. CIT (A) has confirmed the addition of the ld. AO in the following manner:-

6. I have carefully examined the above submission of the appellant vis-a-vis the assessing officer's observation and note that substantial portion of the loans have been sourced from few individuals and concerns like Suresh Ujamshi, Deena Hema Shah and Reap Realtor Private Limited and the same were routed through several individuals and concerns a day or two prior to their transfer to the appellant account. Further in all such cases, the assessing officer also noted very meagre or minimal account balance, and the insufficient income returned by the parties not commensurate with the loans advanced to the appellant. The appellant also tried to explain the credit worthiness of creditors

namely Gauranga Paper Corporation & few other cases relying on the income returned in the ITR in last 3 years without furnishing any evidence of accumulated surplus in bank accounts or elsewhere, which in my view does not explain the cases adequately to the satisfaction.

7 In the above circumstances, I am of the considered view that the creditors do not have any credit worthiness of their own and have acted like conduit in transferring the amount from the unidentified and undisclosed sources to the appellant account. Further the above pattern of transfer of amounts from the persons who doesn't have any credit worthiness also raises question on the genuineness of the transaction. In view of the above, I do not find any infirmity in the assessing officers conclusion that the unsecured loans of Rs 1,95,90,000 appearing in the books of the appellant stands unexplained warranting addition under section 68 of the Income Tax Act

The appellant argued that as the interest of Rs 17,11,593 on these unsecured loans were allowed by the assessing officer, the above loans should be accepted as genuine In this regard, I am to note that the assessing officer has omitted to examine the allowability of interest when the unsecured loans were treated as unexplained. For the same reason, the appellant cannot claim benefit of the above omission which is inadvertent in the assessment order. In view of the above, the assessing officer is directed to rectify the above mistake after giving the appellant an opportunity of being heard in the matter. Accordingly, the ground No 2 is dismissed.

7. Before us ld. Counsel for the assessee submitted that during the course of assessment proceedings as well as before the ld. CIT (A) all the evidences were furnished before the ld. AO and further, assessee had filed statement of income of lender, bank statement, PAN details and 26AS. Thus, these documents conclusively prove the identity, their capacity and credit worthiness to provide the loan and the loans taken by the lender

are genuine. These lenders have also submitted their income tax returns and were regularly assessed to tax. Another important fact is that all the 23 parties were issued notices u/s.133(6) and almost all of them had directly responded to the ld. AO, not only confirming the loan but also submitted all the details. Thus, assessee had conclusively proved the identity, capacity and the genuineness of the transaction in the following manner:-

I. To prove the identity

a) Name, Address, PAN, Income-tax return Acknowledgement, etc. of the lenders

b) Copy of Audit Report and Balance Sheet in cases where it is maintained by the individuals.

The individual's Income-tax Return Acknowledgement and the PAN details of the lender's proved the identity as well as financial capacity. Hence, the aforesaid documents has proved the identity of the lenders. /

II. To prove the creditworthiness

The Appellant has submitted the return of Income of lenders and the relevant bank statements.

The ITR acknowledgement of the lenders proved the identity as well as financial capacity i.e. creditworthiness of the lender's companies.

a) Copy of ITR Acknowledgement

b) Relevant Bank Statement

Therefore, the Appellant submit that the Individual's Income-tax return acknowledgement details and proved the identity as well as financial capacity i.e. creditworthiness of the lender's.

1. The CIT(A) treated unsecured loan as unexplained cash credit under section 68 of the Act on the alleged ground that the Appellant has not brought on record to prove the creditworthiness of the lenders without appreciating that the Appellant has submitted the copies of ITR acknowledgement, bank statements, etc. clearly brought out the nature of the transactions, amount involved and scope of the transaction.

2. The Appellant submit that the Appellant has discharged its onus of proving the identity of the parties, genuineness of the transactions and the creditworthiness of the lender. Therefore, the Appellant humbly submit that the addition made under section 68 of the Act be deleted.

III. To prove the Genuineness

The Appellant has submitted the Extract of Bank Statement of all above mentioned lenders, duly highlighting the entries of loan given by them to the Appellant company.

a) Bank Statement of the Appellant and Lender Companies

b) Loan Confirmation

8. He further submitted that assessee is only required to prove the source of credit and not the source of source and this issue is squarely covered by the judgment of the Hon'ble Bombay High Court in the case of **Gaurav Triyugi Singh vs. ITO** reported in **(2020) 423 ITR 531**.

9. On the other hand, ld. DR referred to the various observations made by the ld. AO with regard to each and every party and submitted that ld. AO has given a detailed reasoning for rejecting the explanation given by the assessee and thus, the addition made by the ld. AO and as confirmed by the ld. CIT(A) should be upheld.

10. We have heard both the parties and also perused the relevant finding given in the impugned order as well as material referred to before us. From the perusal of the assessment order, it is seen that assessee has taken loan from 23 parties for sums aggregating to Rs.1,95,90,000/-. The details of these parties have already been incorporated above. To discharge the onus, assessee had filed following documents qua all the parties before the authorities below which are as under:-

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| 1 | <p>AMIT MONESH VORA <i>i. Copy of Aadhar Card</i> <i>ii. Copy of Pan Card</i> <i>iii. Copy of ITR Acknowledgement for AY-2016-17, 2017-18, 2018-19</i> <i>iv. Copy of Loan Confirmation-AY-2018-19, AY-19-20, AY-20-21 Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i> <i>v. Copy of Relevant Bank Statement showing Repayment of loan to Amit Monesh Vora</i> <i>vi. Copy of Form 26AS</i></p> |
| 2. | <p>ANUPAMA DAYALAL <i>i. Copy of Aadhar Card</i> <i>ii. Copy of Pan Card</i> <i>iii. Copy of ITR Acknowledgement for AY-2016-17, 2017-18, 2018-19</i> <i>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21, AY21-22, AY-22-23</i> <i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i> <i>vi. Copy of Relevant Bank Statement showing Repayment of loan to Anupama Dayalal</i> <i>vii. Copy of Form 26AS</i> <i>viii. Copy of TDS</i></p> |

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| 3. | <p>Arpit Mayur Jota</p> <p>i. Copy of Aadhar Card</p> <p>ii. Copy of Pan Card</p> <p>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</p> <p>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21,AY21-22,AY-22-23</p> <p>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</p> <p>vi. Copy of Relevant Bank Statement showing Repayment of loan to Arpit Mayur Jota</p> <p>vii. Copy of Form 26AS</p> <p>viii. Copy of TDS</p> |
| 4 | <p>Ashwin J. Vora (HUF)</p> <p>i. Copy of Aadhar Card of Karta</p> <p>ii. Copy of Pan Card</p> <p>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</p> <p>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21,AY21-22,AY-22-23</p> <p>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</p> <p>vi. Copy of Relevant Bank Statement showing Repayment of loan to Ashwin J. Vora (HUF)</p> <p>vii. Copy of Form 26AS</p> <p>viii. Copy of TDS</p> |
| 5. | <p>Badhiben Kantilal Sanghavi</p> <p>i. Copy of Aadhar Card</p> <p>ii. Copy of Pan Card</p> <p>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</p> <p>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21,AY21-22,AY-22-23</p> <p>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</p> <p>vi. Copy of Relevant Bank Statement showing</p> |

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| | <p><i>Repayment to Badhiben Kantilal Sanghavi</i></p> <p><i>vii. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |
| 6 | <p><i>Bharatkumar Maskara</i></p> <p><i>i. Copy of Aadhar Card</i></p> <p><i>ii. Copy of Pan Card</i></p> <p><i>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iv. Copy of Loan Confirmation-AY-2018-19 to AY-23-24</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>vi. Copy of Relevant Bank Statement showing Repayment of loan to Bharatkumar Maskara</i></p> <p><i>vii. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |
| 7. | <p><i>Gauranga Paper Corporation</i></p> <p><i>i. Copy of Pan Card</i></p> <p><i>ii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iii. Copy of Loan Confirmation-AY-2018-19-, AY-19-20</i></p> <p><i>iv. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>v. Copy of Relevant Bank Statement showing Repayment to Gauranga Paper Corporation</i></p> |
| 8. | <p><i>Girish Chunilal Sheth</i></p> <p><i>i. Copy of Aadhar Card</i></p> <p><i>ii. Copy of Pan Card</i></p> <p><i>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21,AY21-22,AY-22-23</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> |

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| | <p><i>vi. Copy of Relevant Bank Statement showing Repayment of loan to Girish Chunilal Sheth</i></p> <p><i>vii. Copy of Form 26AS</i></p> |
| 9. | <p>Harsha Mayur Jota</p> <p><i>i. Copy of Aadhar Card</i></p> <p><i>ii. Copy of Pan Card</i></p> <p><i>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21,AY21-22,AY-22-23</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>vi. Copy of Relevant Bank Statement showing Repayment of loan to Harsha Mayur Jota</i></p> <p><i>vii. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |
| 10. | <p>Jayshree Rajesh Sangavi</p> <p><i>i. Copy of Aadhar Card</i></p> <p><i>ii. Copy of Pan Card</i></p> <p><i>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21,AY21-22,AY-22-23</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>vi. Copy of Relevant Bank Statement showing Repayment to Jayshree Rajesh Sangavi</i></p> <p><i>vii. Copy of Form 26AS</i></p> |
| 11 | <p>Jayshree Satish Kubadia</p> <p><i>i. Copy of Aadhar Card</i></p> <p><i>ii. Copy of Pan Card</i></p> <p><i>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21,AY21-22,AY-22-23</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> |

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| | <p><i>vi. Copy of Relevant Bank Statement showing Repayment to Jayshree Satish Kubadia</i></p> <p><i>vii. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |
| 12 | <p>Kailash Chandra Maskara</p> <p><i>i. Copy of Aadhar Card</i></p> <p><i>ii. Copy of Pan Card</i></p> <p><i>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iv. Copy of Loan Confirmation-AY-2018-19-AY-19-20, AY-20-21,AY21-22.AY-22-23</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>vi. Copy of Form 26AS</i></p> <p><i>vii. Copy of TDS</i></p> |
| 13. | <p>Kailash Chandra Maskara HUF</p> <p><i>i. Copy of Pan Card</i></p> <p><i>ii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iii. Copy of Loan Confirmation-AY-2018-19 to AY-24-25</i></p> <p><i>iv. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>v. Copy of Form 26AS</i></p> <p><i>vi. Copy of TDS</i></p> |
| 14 | <p>Kantadevi Torka</p> <p><i>i. Copy of Pan Card</i></p> <p><i>ii. Copy of ITR Acknowledgement for AY-2017-18, 2018-19</i></p> <p><i>iii. Copy of Loan Confirmation-AY-2018-19 to AY-24-25</i></p> <p><i>iv. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>v. Copy of Form 26AS</i></p> <p><i>vi. Copy of TDS</i></p> |
| 15 | <p>Mamta Kamlesh Gupta</p> <p><i>i. Copy of Aadhar Card</i></p> |

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| | <p>ii. Copy of Pan Card</p> <p>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</p> <p>iv. Copy of Loan Confirmation-AY-2018-19-, AY-19-20, AY-20-21</p> <p>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</p> <p>vi. Copy of Relevant Bank Statement showing Repayment of loan to Mamta Kamlesh Gupta</p> <p>vii. Copy of Form 26AS</p> <p>viii. Copy of TDS</p> |
| 16 | <p>Murarilal P Bajaj</p> <p>i. Copy of Aadhar Card</p> <p>ii. Copy of Pan Card</p> <p>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</p> <p>iv. Copy of Loan Confirmation-AY-2018-19 to AY-24-25</p> <p>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</p> <p>vi. Copy of Relevant Bank Statement showing Repayment of loan to Murarilal P Bajaj</p> <p>vii. Copy of Form 26AS</p> <p>viii. Copy of TDS</p> |
| 17 | <p>Pushkarlal Maskara HUF</p> <p>i. Copy of Pan Card</p> <p>ii. Copy of ITR Acknowledgement for AY-2016-17,2017-18,2018-19</p> <p>iii. Copy of Loan Confirmation-AY-2018-19 to AY-24-25</p> <p>iv. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers lip</p> <p>v. Copy of Form 26AS</p> <p>vi. Copy of TDS</p> |
| 18 | <p>Santaben Suresh Kubadiya</p> <p>i. Copy of Aadhar Card</p> <p>ii. Copy of Pan Card</p> <p>iii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</p> |

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| | <p><i>iv Copy of Loan Confirmation-AY-2018-19, AY-19-20, AY-20-21,AY21-22,AY-22-23</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>vi. Copy of Relevant Bank Statement showing Repayment to Santaben Suresh Kubadiya</i></p> <p><i>vii. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |
| 19 | <p>Sheoprashad Sedmal Torka HUF</p> <p><i>i. Copy of Pan Card</i></p> <p><i>ii. Copy of ITR Acknowledgement for AY-2017-18, 2018-19</i></p> <p><i>iii. Copy of Loan Confirmation-AY-2018-19 to AY-24-25</i></p> <p><i>iv. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers lip</i></p> <p><i>v. Copy of Form 26AS</i></p> <p><i>vi. Copy of TDS</i></p> |
| 20 | <p>Sonu Vikas Torka</p> <p><i>i. Copy of Aadhar Card</i></p> <p><i>ii. Copy of Pan Card</i></p> <p><i>iii. Copy of ITR Acknowledgement for AY-2017-18, 2018-19</i></p> <p><i>iv. Copy of Loan Confirmation-AY-2018-19 to AY-24-25</i></p> <p><i>v. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>vi. Copy of Relevant Bank Statement showing Repayment of loan to Sonu Vikas Torka</i></p> <p><i>vii. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |
| 21 | <p>Suresh Maganlal Kubadia HUF</p> <p><i>i. Copy of Pan Card</i></p> <p><i>ii. Copy of ITR Acknowledgement for AY-2016-17 2017-18, 2018-19</i></p> <p><i>iii. Copy of Loan Confirmation-AY-2018-19 TO AY-22-23</i></p> <p><i>iv. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>v. Copy of Relevant Bank Statement showing</i></p> |

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| | <p><i>Repayment to Suresh Maganlal Kubadia HUF</i></p> <p><i>vi. Copy of Form 26AS</i></p> <p><i>vii. Copy of TDS</i></p> |
| 22 | <p><i>Twisha Enterprises LLP</i></p> <p><i>i. Copy of Pan Card</i></p> <p><i>ii. Copy of ITR Acknowledgement for AY-2016-17,2017-18, 2018-19</i></p> <p><i>iii. Copy of Loan Confirmation-AY-2018-19-AY-19-20</i></p> <p><i>iv. Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>v. Copy of Relevant Bank Statement showing Repayment of loan to Twisha Enterprises LLI</i></p> <p><i>vi. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |
| 23 | <p><i>Vikas L Torka HUF</i></p> <p><i>i. Copy of Pan Card</i></p> <p><i>ii. Copy of ITR Acknowledgement for AY-2017-18, 2018-19</i></p> <p><i>iii. Copy of Loan Confirmation-AY-2018-19 to AY-24-25</i></p> <p><i>v Copy of Relevant Bank Statement showing Payment of loan to Gauranga Papers LLP</i></p> <p><i>vi. Copy of Relevant Bank Statement showing Repayment of loan toVikas L Torka HUF</i></p> <p><i>vii. Copy of Form 26AS</i></p> <p><i>viii. Copy of TDS</i></p> |

11. Thus, all the necessary documents to prove the identity, creditworthiness and genuineness were filed before the ld. AO as well as before the ld CIT (A). One of the major loans including from Gauranga Paper Corporation have come through related parties, i.e. family and partners who had given all the details of their balance sheets, bank statements and confirmation alongwith Form 26AS. From the perusal of the

reasons given by the ld. AO qua each party, it is seen that on one hand, he is quoting the PAN of every party and on the other hand stating that the party has not furnished the PAN card or copy of Adhaar card; and in some of the cases he has analysed the bank statements of the lenders and had commented that these amounts have been credited to the bank account from Gauranga Paper LLP after transfer of amount from some other related parties. Thus, he has questioned the source of the source.

12. One very important fact in this case is that ld. AO had issued notices to all the parties out of which 21 parties have replied directly in response to the notice u/s. 133(6), who had given all these documents which had been referred above before the ld. AO. Without assigning any cogent reasons, he has doubted their creditworthiness, even when all these parties have given the loan from their bank account and in none of the cases there is any kind of cash deposit prior to giving of loan. In fact there are funds coming through clearance or transfer in their bank accounts either from their business or related concerns. It is also not the case of the AO that these loans have come through any entry provider or broker or there was any information or material to doubt the entire genuineness of the transaction of loan based on some inquiry or report. As per law applicable in A.Y. 2018-19, assessee was not required to prove the source of the source and this issue is now well settled by the decision of the **Hon'ble Bombay High Court in the case of Gaurav Triyugi**

Singh vs. ITO (supra) that, once the creditor had explained as to how and manner in which credit was given to the assessee, and amount was received through banking channels, then without bringing any material to impeach the source of credit, addition cannot be made u/s.68. Once the onus cast upon the assessee has been discharged, then the burden shifts upon the Revenue to bring some material on record that source of credit as explained by the assessee is false. If ld. AO had any doubt about the source in the hands of the creditors, then ld. AO should have enquired or asked the creditors especially when creditors have duly confirmed and has given the bank statements directly to the AO.

13. Even from the perusal of the bank statements it is seen that the credits have come through banking channels and transfer entry from other group entities or family members or from other difference source of their business. Thus, the onus cast upon the assessee has been duly discharged. What is required u/s.68 is that assessee has to offer the explanation about the nature of the credit and to prove the source of such credit has to discharge the burden by proving the identity, credit worthiness and genuineness of the transaction. All the documents which have been submitted and also by the inquiry conducted by the ld. AO from all the creditors, all the ingredients stands discharged. Ld. AO does not have any other material or information to disbelieve the creditworthiness or genuineness of the transaction or to impeach the source of the credit. Accordingly, the addition made by the ld. AO for

Rs.1,95,90,000 is deleted. Further, the interest paid on such loan for Rs.17,11,593/- is also allowed. In the result, ground Nos. 2 & 3 are allowed.

14. Ground Nos. 4 & 5 relating to charging of interest u/s.234A and 234B is consequential.

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

Order pronounced on 10th December, 2024.

Sd/-
(PADMAVATHY S)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 10/12/2024
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai