

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

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.738/Ahd/2024
Assessment Year: 2017-18**

Ikbalbhai Abdulgani Pocha, 328-1, Koliwad, PO – Shahera, Panchmahal – 389 210 (Gujarat) [PAN – COZPP 0814 A] (Appellant)	Vs.	Income Tax Officer, Ward – 1, Godhra. (Respondent)
Assessee by	Ms. Vidhi V. Pandya, CA	
Revenue by	Shri C. Dharani Nath, Sr. DR	
Date of Hearing	19.11.2024	
Date of Pronouncement	17.12.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Assessee against order dated 02.11.2023 passed by the CIT(A), National Faceless Appal Centre (NFAC), Delhi for the Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal :-

- “1) *Addition u/s 68 of the Act of Rs.25,26,619/- on account of capital introduction in his proprietorship concern M/s. Sugi Petroleum: On facts and in the circumstances of the case and in law, Ld. CIT(A) by confirming the order passed by the Ld. AO has grossly erred in making addition of Rs.25,26,619/- to the income of the appellant on account of capital introduction in his proprietorship concern M/s. Sugi Petroleum as the said introduction in the capital account were out of genuine source. The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any grounds of appeal at the time of or before the hearing of the appeal.*

2) *Ad-hoc disallowances of Rs.37,856/- being 10% of the total expenses of Rs.3,78,562/-: On facts and in the circumstances of the case and in law, Ld. CIT(A) by confirming the order passed by the Ld. AO has grossly erred in making ad-hoc disallowance of Rs.37,856/- being 10% of the total expenses of Rs.3,78,562/-. The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any grounds of appeal at the time of or before the hearing of the appeal."*

3. The assessee is engaged in the business of running Petrol Pump under the proprietorship of M/s. Sugi Petroleum. The assessee filed return of income on 14.09.2017 declaring total income of Rs.4,16,270/- for the assessment year 2017-18. The assessee has shown income under the head business or profession and income under the head other sources. The case was selected for complete scrutiny and notice under Section 143(2) of the Income Tax Act, 1961 was issued to the assessee on 22.09.2018 which was duly served upon the assessed. Notice under Section 142(1) of the Act was issued and thereafter show cause notice dated 24.12.2019 was also served upon the assessee for which the assessee submitted his reply. The Assessing Officer observed that the assessee made capital addition of Rs.40,13,180/- during the year. In response to the queries, the assessee submitted that bifurcation of capital addition wherein Rs.14,56,561/- was earlier withdrawal and remaining part is agricultural income of the assessee. The assessee submitted that the withdrawals were in the financial year 2015-16 and there is surplus fund as cash in hand and of the assessee. The same was introduced in the capital account of the assessee. Considering the facts, the source of cash deposit was explained as contemplated by the assessee and the same was accepted. During the course of assessment proceedings, the assessee submitted copy of land record and it was found that the assessee has not substantiated the cogent evidences which can prove the source of cash deposits. On perusal of the ITR for the assessment year 2016-17 and 2017-18, assessee has not claimed any agricultural income. Therefore, the Assessing Officer observed that the assessee has just colouring the transaction with his malafide intention and manipulated the source of cash deposits. The Assessing Officer further observed that the agricultural income of Rs.25,56,619/- was earned during the year and 35 to 40% expenditure is incurred on deriving the agricultural income of total gross agricultural income as contended by the assessee is not supported by any evidence and thus made addition of the said amount under Section 68 of the Act as unexplained cash credit (capital introduced). The Assessing Officer also made disallowance on

account of penal charges amounting to Rs.20,000/- and disallowance on account non-deduction of TDS amounting to Rs.8,577/-. The Assessing Officer also made disallowance on account of expenses amounting to Rs.37,856/-.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that there is a delay of 69 days in filing the present appeal as the assessee's Representative has not taken ample caution to file the appeal within the time limit. The reasons appear to be genuine and hence the delay is condoned.

6. The Ld. AR submitted that the CIT(A) was not justified in confirming the addition of Rs.25,26,619/- on account of capital introduced in his proprietorship concern Sugi Petroleum as the same introduced in the capital account were out of genuine sources. The Ld. AR submitted that the assessee has submitted all the requisite details of the source thereby giving bifurcation of capital addition in respect of earlier withdrawals and the details of agricultural income. The assessee has submitted land record of agricultural income as well as the crop details related to the said agricultural land. The Ld. AR submitted that the Assessing Officer totally ignored the fact that the unutilised capital was reinvested in business by the assessee during the year under consideration i.e. assessment year 2017-18 and the same is accepted by the Assessing Officer. But while passing the order, the Assessing Officer has not taken cognisance of the same and passed the order by making addition of Rs.25,26,619/-. The assessee is having more than 20 acres of land with his family and is having agricultural income approximately of Rs.18,00,000/- to Rs.20,00,000/- and during the year earned Rs.17,51,005/- from the sales of various agricultural produce such as wheat, corn, paddy to the different parties and the details of agricultural bills were also submitted during the assessment proceedings. As relates to addition on account of adhoc disallowance of Rs.37,856/- being 10% of the total expenses of Rs.3,78,562/- incurred on various expenses such as office expenses, conveyance allowance, travelling expenses, power and fuel etc. and the same was in relation to the business of the assessee in the name of Sugi Petroleum. The Assessing Officer made addition

of 10% but the net profit ratio is 0.3% during the year under consideration and, therefore, adhoc disallowance is not sustainable.

7. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

8. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that as regards ground no.1, the assessee has given all the details related to agricultural income such as land records, crop details which were taken during the year and the same was produced through various bills produced before the Assessing Officer and placed before the CIT(A). The Assessing Officer as well as the CIT(A) has not taken cognisance of the same and, therefore, the Assessing Officer as well as the CIT(A) was not justified in making the said addition. Thus, ground no.1 is allowed.

9. As regards ground no.2 relating to adhoc disallowance of Rs.37,856/- being 10% of the total expenses, the expenses appear to be justifiable and, therefore, adhoc disallowance has been taken to the extent of 10% of expenses by the Assessing officer. Hence, the same requires to be deleted. Thus ground no.2 is allowed.

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

Order pronounced in the open Court on this 17th December, 2024.

Sd/-
(DR. BRR KUMAR)
Vice President

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 17th December, 2024
PBN/*

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

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*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*