

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

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

**ITA No.621/Ahd/2024
Assessment Year: 2012-13**

Yashwantbhai Somabhai Patel, Yash Complex, Gotri Road, Vadodara – 3 90 021. [PAN – ACQPP 6486 R]	Vs.	The Deputy Commissioner of Income Tax, Circle – 1(2), Baroda.
(Appellant)		(Respondent)
Assessee by	Shri M.J. Shah, Advocate	
Revenue by	Smt. Mamta Singh, Sr. DR	
Date of Hearing	21.11.2024	
Date of Pronouncement	19.12.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

This appeal is filed by the Assessee against order dated 29.02.2024 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2012-13.

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

- “1. *The CIT Appeal has erred both in facts and law confirming the addition of*
 - a) *Rs.1,88,429/- under the head Capital Gain.*
 - b) *Rs.59,28,094/- as unexplained unsecured loans under Section 68 though appellant had submitted all details which are required under law to justify loans.*
 - c) *Appellant reserves his right to add or vary the grounds of appeal.*

3. The assessee has filed return of income for the assessment year 2012-13 on 27.03.2014 declaring total income at Rs.15,59,380/-. The return was processed under Section 143(1) of the Income Tax Act, 1961 and later on Section 147 of the Act was initiated after recording the reasons. Notice under Section 148 of the Act dated 25.03.2015 was issued and served upon the assessee. The assessee replied and submitted that return filed under Section 143(1) of the Act may be treated as return filed in response to notice under section 148 of the Act. Notices under Section 142(1) of the Act was issued and the assessee's AR submitted the submissions as well as the details. The Assessing Officer observed that the assessee has shown income from Long Term Capital Gain on sale of immovable properties at Rs.13,82,796/- and income from interest at Rs.2,85,567/- and claimed deduction under Chapter-VIA at Rs.1,15,000/-. The assessee also claimed exempt income as relates to PPF interest of Rs.2,10,712/- and dividend income of Rs.1,450/-. After taking cognisance of all the relevant documents/details, the Assessing Officer observed that the assessee alongwith other five persons purchased NA land vide registered sale deed for Rs.1,54,00,000/- paying Stamp Duty of Rs.7,55,000/- as well as Registration Charges of Rs.1,54,390/-. Thus, the Assessing Officer observed that the cost of purchase of the of said land works out to Rs.Rs.2,67,94,230/-. After going through the assessee's reply, the Assessing Officer observed that the assessee has suppressed gain of Rs.1,88,429/- as the assessee has not explained as to how he has claimed his share of 22% in place of 25%. Thus, the Assessing Officer made addition of Rs.1,88,429/- as suppressed gain/under-valuation of Short Term Capital Gain. The Assessing Officer also observed that the assessee has claimed unsecured loan from four parties amounting to Rs.59,28,094/- and after perusal of assessee's reply, held that the assessee failed to explain satisfactorily his claim of unsecured loan and made addition of Rs.59,28,094/- under Section 68 of the Act. The Assessing Officer also made disallowance under Section 14A of the Act amounting to Rs.13,393/-.

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 ground no.1(a) relating to addition under the head Capital Gain amounting to Rs.1,88,429/- is not pressed. As regards ground no.1(b)

relating to addition of Rs.59,28,094/- as unexplained unsecured loans under Section 68 of the Act, the Ld. AR submitted that the assessee has given the trial money trade in from the four parties that are Son of the assessee i.e. Ketul Yashwantbhai Patel Daughter of the assessee i.e. Kinnari Amit Patel, Daughter-in-law of the assessee i.e. Bindi Ketul Patel and Son-in-law of the assessee i.e. Amit Indubhai Patel. The assessee has submitted the confirmations and details of the statement of accounts including the maturity of Term Deposit and transfer from USA by Ketul Yashwantbhai Patel, transfer from Canada Kninari Amit Patel. Thus, the details were given by the assessee to both the Authorities which was totally overlooked by the Assessing Officer as well as by the CIT(A).

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

7. We have heard both the parties and perused all the relevant material available on record. As regards ground no.1(a), the same is not pressed, hence dismissed. As regards ground no.1(b), the assessee has given the details related to bank statement of all the four parties who are relatives of the assessee as well as the statement showing remittance from USA and Canada including that of confirmation affidavit, bank statement, PAN card details and passport details of all these parties. These aspects were not taken into account by the Assessing Officer as well as by the CIT(A). Hence, the addition made by the Assessing Officer is not justifiable. Thus, appeal of the assessee is allowed,

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

Order pronounced in the open Court on this 19th December, 2024.

Sd/-
(DR. BRR KUMAR)
Vice President

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 19th December, 2024

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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