

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "A" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member  
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 1536/Ahd/2018  
Asst. Year : 2013-14**

The ITO, Ward-2(1)(1), Ahmedabad  <b>(Appellant)</b>	Vs	M/s. Entire Ceramics Ltd. 301, Parisharm Elegance, S.G. Highway, Sola Bridge, Science City Road, Sola, Ahmedabad <b>PAN: AADCE0596R (Respondent)</b>
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**Revenue Represented: Shri B.P. Srivastava, Sr. DR  
Assessee Represented: None**

Date of hearing : 08-10-2024  
Date of pronouncement : 31-12-2024

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Revenue as against the appellate order dated 12.03.2018 passed by the Commissioner of Income Tax (Appeals)-2, Ahmedabad arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2013-14.

2. The Grounds of appeal filed by the Revenue are as follows:

1 The Ld CIT(A) had erred in law and on facts in deleting the addition of Rs. 46,80,450/- out of unsecured loans received during the year under consideration u/s 68 of IT Act

1.1 The Ld CIT(A) failed to appreciate that the assessee has not been able to establish the source of the funds as required by the amended provisions of Section 68 of IT Act

1.2 The Ld CIT(A) failed to appreciate the findings of the AO that no agricultural activity had been carried out in the land by the so called agriculturists who advanced the funds

2 The Ld CIT(A) erred in deleting the addition of Rs 12,00,000/- received as share application money u/s 68 of IT Act

3. The Id CIT(A) had erred in law and on facts in deleting the addition of Rs 7,35,000/- received as Share application money ignoring the fact that the assessee has not been able to prove the immediate source of cash deposit in the applicants bank account

4. The Ld CIT(A) had erred in law and on facts in deleting the addition of Rs 3,50,000/- received as Share application money ignoring the fact that the assessee has not been able to prove the immediate account source of cash deposit in the applicants bank

4. The Ld CIT(A) has erred in law and on facts in deleting the addition of Rs.48,50,000/- u/s 68 of IT Act received from 32 parties as Share application money.

4.1 The Ld CIT(A) failed to appreciate that the assessee has not been able to establish the source of the funds as required by the amended provisions of Section 68 of IT Act

4.2. The Ld CIT(A) failed to appreciate the findings of the AO that no agricultural activity had been carried out in the land by the so called agriculturists who advanced the funds

5. The Ld CIT(A) had erred in law and on facts in deleting the addition of Rs.1,16,57,000/- out of Share application money received during the year under consideration u/s 68 of IT Act

5.1. The Ld CIT(A) failed to appreciate that the assessee has not been able to establish the source of the funds as required by the amended provisions of Section 68 of IT Act

5.2. The Ld CIT(A) failed to appreciate the findings of the AO that no agricultural activity had been carried out in the land by the so called agriculturists who advanced the funds

6. The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.

3. Today is the 48<sup>th</sup> time of listing of this appeal, None appeared on behalf of the assessee, in spite of service of notice, which clearly shows that the assessee is not interested in perusing the appeal. So with the assistance of Sr. D.R. the above appeal is disposed.

4. Ground No. 1 deletion of addition of Rs.46,80,450/- out of unsecured loan received during the year. The findings of the Ld. CIT(A) are as follows:

"... 2.4. The appellant during the appellate proceedings as well as before the AC has furnished the confirmation of the parties with their complete address, 7/12 Extract of land holding which also mentions the product cultivated on the said land, Mandali Certificate in support of income from sale of milk, crop bills being the source of income and Form No. 12 being certificate issued by Mamlatdar Office after physically visiting the respective agriculture land surveying the actual crop standing on the land at the time of visit. It is also argued that since the lenders being farmers and earning agriculture income most of them did not have PAN. The appellant has also furnished party wise explanation/justification in support of the loan given by such parties to the appellant company.

... ..

On going through the party wise chart giving particulars of evidences furnished, it is seen that the appellant has furnished sufficient evidences in form of 7/8 extract, Form No. 12. Crop Bills, Sale bills of Milk and bank statements, except in cases of Shri Prahladbhal Madhavbhai Patel from whom loan of Rs.36,200/- is received and Shri Jayantibhal Dwarkadas Patel from whom loan of Rs.1,50,000/- is received. It is noticed that the Income earned by these loan creditors even in one year is higher than the amount lent to the appellant company and hence the creditworthiness of the parties cannot be doubted. Moreover, the AO has not brought any adverse material against the evidence submitted by the appellant. As regard to loan from Shri Jayantibhal Dwarkadas Patel of Rs.1,50,000/- appellant has submitted certificate of sale of milk of Rs.74,613/ The appellant has further furnished form of 7/8 extract and Form No. 12 in support of agriculture activity. On perusal of bank statement, it is seen that there are regular deposits in earlier years and hence credit worthiness cannot be doubted. As regard to Shri Prahladbhal Madhavbhai Patel

from whom loan of Rs.36,200/- is received, though no crop bill/sale of milk is furnished, the appellant has furnished supporting evidence for agriculture land. On perusal of bank account, It is seen that the Immediate source of loan of Rs.36,200/- is a cheque entry of Rs.36,271/- as well as Rs.1,08,750/- received from LIC of India and thus the credit worthiness is proved. In view of the foregoing discussion, the addition of Rs.46,80,450/- is hereby deleted. The ground of appeal is accordingly allowed.

4.1. The Revenue could not distinguish with any material evidence about the findings of the Ld. CIT(A) and the credit worthiness of the Creditors. Thus Ground NO. 1 raised by the Revenue is hereby dismissed.

5. Regarding Ground No. 2 share application money of Rs. 12,00,000/-. The findings of the Ld. CIT(A) are as follows:

"... 4.3. I have carefully considered the facts of the case, assessment order and submission of the appellant. The AO has made the addition of Rs.12,00,000/- pertaining to Shri Prakashbhai B. Patel and Shri Vithalbhai Mathurbhai Patel for Rs.5,00,000/- and Rs.7,00,000/- respectively on the ground that no documentary evidence has been furnished except Mandali Certificate. Appellant on the other hand submitted that Shri Prakashbhai B. Patel has taken a loan from M/s. Saraswati Finance and given cheque directly to the appellant. Appellant has submitted a confirmation to that effect. As regard to investment by Shri Vithalbhai M. Patel, appellant has submitted that it has received back unsecured loan given to Shri Manubhai Patel which has been invested in the share capital. Appellant has submitted documentary evidence in the form of bank statement and confirmation. The AO has accepted investment to the extent of Rs.2,72,000/- in the case of Shri Prakashbhai B. Patel and Rs.93,350/- in the case of Shri Vithalbhai M. Patel.

4.4. It is seen that AO has made the addition of Rs.5,00,000/- in the case of Shri Prakashbhai B. Patel twice i.e., one here and another at Sl. No. 11 of Annexure D in the addition of Rs.1,16,57,000/-, The appellant has furnished bank statement and confirmation of M/s. Saraswati Finance from whom loan was obtained by Shri Prakashbhai B. Patel. Appellant has also submitted copy of 7/8 extract, Form No. 12 and sale bill of milk. Thus, the source of investment is sufficiently

explained. As regard to investment of Rs.7,00,000/- received from Vitthalbhai Mathurbhai Patel, appellant has contended that it has received back unsecured loan given to Shri Manubhai Patel which has invested in the share capital. Appellant has submitted copy of confirmation and bank statement in support of the above claim. In view of the above, the source of investment in the share capital by above parties is explained.

The ground of appeal is accordingly allowed.

5.1. Ld. Sr. D.R. relied upon the order of the A.O. In the absence of any further details, the findings arrived at Ld. CIT(A) does not require any interference and the deletion of Rs.12 lakhs on Share Application money is hereby confirmed. Thus Ground no. 2 raised by the Revenue is hereby dismissed.

6. Regarding Ground no. 3 addition of Rs. 7.75 lakhs, the findings of the Ld. CIT(A) are as follows:

5.3. ... .. The AO has made addition of Rs.7,35,000/- pertaining to 7 parties on the ground that the appellant has not furnished any details of source of income except in case of the Madhabhal B. Patel and that in all cases credit entries have been received by transfer, a day before the date of investment and hence the creditworthiness in case of these parties is not proved. Appellant on the other hand has furnished confirmation, copy of bank statement and mandal loan certificate to explain the source of Investment. The appellant has contended that in the case of Shri Jaiminiben Mistry, the funds have been received from her father and submitted the bank statement in support of its claim. In the case of Shri Madhabhai B. Patel, the AO has accepted the crop bill and milk bill of Rs.3.89.526/-, but has added only on the ground that there is a cash deposit of Rs.1,00,000/- before making the investment, Appellant has submitted the source of investment as the loan credit from Mandall in the case of 4 persons namely: Shri Hareshbhai J. Patel, Shri Jayeshbhai J. Patel, Shri Narsinhbhai J. Patel and Shri Rasikbhai G. Patel. As regard to Shri Umeshkumar Madhabhai Patel, appellant submitted that Shri Umeshkumar M. Patel has received the loan from his brother Shri Jayeshbhai Madhabhai Patel and submitted copy of bank statement and confirmation. As regard to Shri Madhabhai B. Patel, the appellant has submitted crop bill and milk bill of Rs.3,89,526/- for the investment of Rs.2,00,000/-. In view of the

above, the source of investment is explained, In the light of above facts and discussion, the addition of Rs.7,35,000/- is hereby deleted.

6.1. Revenue could not distinguish the findings of Ld. CIT(A) and the source of investments explained by the assessee with relevant evidences. Thus this Ground is devoid of merits and liable to be dismissed.

7. Regarding Ground No.4 & 5 of Rs.3,50,000/- and Rs. 48,50,000/- received as share application money. The findings of the Ld. CIT(A) are as follows:

"... 6.3. The AO has made the addition of share capital of Rs.48,50,000/- pertaining to various parties as listed by the AO in Annexure-B forming part of assessment order. The AO has observed that there is no denying the fact that the agriculturists are holding substantial agricultural land and have carried out agricultural activities but their actual income from such activities is not ascertainable in absence of any documentary evidence. The AO has thus concluded that though the Identity and genuineness of the investors are proved by the appellant, the creditworthiness of the investors not having PAN remains unproved.

6.4. The appellant during the appellate proceedings as well as before the AO has furnished the confirmation of the parties with their complete address, 7/12 Extract of land holding which also mentions the product cultivated on the said land, Mandali Certificate in support of income from sale of milk, crop bills being the source of income and Form No. 12 being certificate issued by Mamlatdar Office after physically visiting the respective agriculture land surveying the actual crop standing on the land at the time of visit. It is also argued that since the investors being farmer and earning agriculture income most of them did not have PAN. The appellant has also furnished party wise explanation/justification in support of the share capital given by such parties to the appellant company. The appellant has submitted the source of investment as under:

On going through the said party wise chart giving particulars of evidences furnished, I find that the appellant has furnished sufficient evidences in form of 7/8 extract, Form No. 12, Crop Bills, Sale bills of

Milk and bank statements. It is seen that appellant has submitted evidence of ownership of land, income from crop and milk which indicates investors have sufficient creditworthiness to make investment. In the case of Shri Bhagyeshbhai D. Patel, Shri Kanubhai S. Patel and Shri Pravinbhai A. Patel, appellant has not submitted the crop bill as same was not available but submitted the evidence of agriculture holding and bank statement which shows regular deposit of agriculture income. In view of this, the source of share capital stands explained. The ground of appeal is accordingly allowed.

7.1. The Ld. Sr. D.R. requested to set aside this issue back to the file of Assessing Officer for further verification by the AO. On perusal of the Ld. CIT(A) order, we do not find any infirmity in his appellate order, whereas he has considered the evidences in form of 7/8 extract, Form No.12, Crop Bills, Sale bills of Milk and bank statements, evidence of ownership of land, income from crop and milk which indicates investors have sufficient credit worthiness to make investment. Thus the Ground Nos. 4 & 5 raised by the revenue are devoid of merits and is hereby dismissed.

8. Regarding Ground No. 6 is Rs. 1.16 crores of share application money. The findings of the Ld. CIT(A) are as follows:

"8.3. I have carefully considered the facts of the case, assessment order. and submission of the appellant. The AO has made the addition of share capital of Rs.1,16,57,000/- pertaining to 50 parties as listed by the AO in Annexure-D forming part of assessment order. The AO has observed that there is no denying the fact that the agriculturists are holding substantial agricultural land and have carried out agricultural activities but their actual income from such activities is not ascertainable in absence of any documentary evidence. The AO has thus concluded that though the Identity and genuineness of the Investors are proved by the appellant, the credit worthiness of the investors not having PAN remains unproved.

8.4. The appellant during the appellate proceedings as well as before the AO has furnished the confirmation of the parties with their complete address, 7/8 Extract of land holding which also mentions the

product cultivated on the said land, Mandali Certificate in support of income from sale of milk, crop bills being the source of income and Form No. 12 being certificate issued by Mamlatdar Office after physically visiting the respective agriculture land and surveying the actual crop standing on the land at the time of visit. It is also argued that since the investors being farmers and earning agriculture income most of them did not have PAN. The appellant has also furnished party wise explanation/justification in support of the share capital given by such parties to the appellant company. The appellant has submitted the source of investment as under:-

On going through the said party wise chart giving particular of evidences furnished, I find that the appellant has furnished sufficient evidences in form of 7/8 extract, Form No. 12, Crop Bills, Sale bills of Milk and bank statements in the case of all the parties except Shri Amrulbhai Kachrabhai Patel & Shri Karilibhai Madhabhai Patel. It is seen that appellant submitted evidence of ownership of land, Income from crop and milk which indicates investors have sufficient creditworthiness to make Investment. As regard to Shri Amrutbhai Kachrabhai Patel and Shri Kantibhai Madhabhai Patel, appellant has submitted evidence of ownership of agriculture land and bank statement. On perusal of bank statement, it is seen that there is regular deposit of cash proceeds in the bank account of agriculture income. In view of the above, the source of share capital is explained in respect of above two parties is also explained. The ground of appeal is accordingly allowed.

8.1. The findings arrived by the Ld. CIT(A) does not require any interference, since the Ld DR could not distinguish the findings of Ld CIT[A] with necessary materials. Further perusal of the appellate order, we do not find any infirmity in his appellate order, whereas he has considered the evidences in form of 7/8 extract, Form No.12, Crop Bills, Sale bills of Milk and bank statements, evidence of ownership of land, income from crop and milk which indicates investors have sufficient credit worthiness to make investment. Thus the Ground No. 6 raised by the revenue is devoid of merits and is hereby dismissed.

9. In the result, **the appeal filed by the Revenue is hereby dismissed.**

Order pronounced in the open court on 31-12-2024

**Sd/-**  
**(NARENDRA PRASAD SINHA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

**Ahmedabad :**

**Dated 31/12/2024**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद