

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

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**In ITA No.37/Ahd/2024  
Assessment Year: 2017-18**

Shyam Enterprise, 508, Abhijeet, Mithakali Six Road, Navrangpura, Ahmedabad – 380 009. <b>[PAN – ACAFS 2276 A]</b> (Appellant)		Vs.	The Deputy Commissioner of Income Tax, Circle – 2(1)(1), Ahmedabad. (Respondent)
Assessee by	Shri Tushar Hemani, Sr. Advocate & Shri Parimalsinh B. Parmar, AR		
Revenue by	Shri Santosh Kumar, Sr. DR		
Date of Hearing	30.12.2024		
Date of Pronouncement	06.01.2025		

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER:**

This appeal is filed by the assessee against order dated 29.11.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

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

- “1. The learned CIT(A) has erred in law and on facts of the case in deciding the appeal ex-parte which is gross violation of principles of natural justice.*
- 2. The learned CIT(A) has erred in law and on facts of the case in confirming the addition of Rs.1,14,25,840/- as unexplained cash credit u/s. 68 of the Act.*
- 3. The learned CIT(A) has erred in law and on facts of the case in confirming the disallowance of interest on unsecured loan of Rs.8,96,398/-.*

4. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. The action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
5. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the Id. AO in levying interest u/s. 234A/B/C/D of the Act.*
6. *The Appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.”*

3. The assessee is engaged in the business of real estate. The assessee filed return of income on 13.10.2017 declaring total income at Rs.2,47,870/-. The case of the assessee was selected for complete scrutiny for the reason of “higher turnover reported in Service Tax Return as compared to Income Tax Return, large squared up loans during the year and real estate business with high closing stock”. After issuance of statutory notice, the assessee furnished details of unsecured loans, confirmations, PAN, ITR, Bank statement of all the parties from whom loans were accepted during the year to prove their genuineness, existence and creditworthiness. The Assessing Officer observed that the details filed by the assessee are not submitted properly/fully and thus the Assessing Officer observed that the lenders were giving accommodation entries to the assessee from its sister concerns i.e. Murlidhar Buildcon and Murlidhar Corporation. They are receiving credit entries from these concerns just before lending of loan to the assessee in the form of unsecured loan. The assessment was completed thereby treating the unsecured loan of Rs.1,14,25,840/- as unexplained cash credit under Section 68 of the Act and further the interest expense incurred on loan to the tune of Rs.8,96,398/- was disallowed by the Assessing Officer.

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

5. The Ld. AR submitted that the CIT(A) has passed ex-parte order and in fact all the evidences were before the Assessing Officer and the additional evidences as stated in paragraph no.5.2 by the CIT(A) was already before the Assessing Officer as well as before the CIT(A). The assessee has not received proper opportunity to plead

his case before the CIT(A). Therefore, the Id. AR submitted that the matter may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merit. The Ld. AR further submitted that all the transactions were through cheque and all the details were filed before the Assessing Officer to prove the identity, creditworthiness and genuineness of the transactions.

6. The Ld. DR relied upon the order of the CIT(A) and the order of the Assessing Officer.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that in paragraph no.2 of the order for the CIT(A), the CIT(A) has categorically mentioned all the documents which were submitted alongwith confirmation of the parties and the same was not taken into account by the CIT(A) while passing the order. Besides this, the CIT(A) has not given the details as to whether the notices of hearing were properly served to the assessee or not. Therefore, it will be appropriate to remand back this matter to the file of the CIT(A) for proper verification of the evidences filed by the assessee before the Assessing Officer as well as before the CIT(A) and adjudicate the matter as per Income Tax Act. The assessee be given opportunity of hearing by following the principles of natural justice.

8. In the result, appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the open Court on this 6<sup>th</sup> January, 2025.

*Sd/-*  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 6<sup>th</sup> January, 2025**

**PBN/\***

*Copies to:*

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

*By order*

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