

**आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत**

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA No.640/SRT/2023 (AY 2015-16)

*(Hybrid processing hearing)*

Maruti Developers Sr.No.64/1, Block No.96, T.P.No.19, Parvat Gam, Surat-395 010 <b>[PAN : AAUFM 9192 M]</b>	बनाम Vs	Assistant Commissioner of Income- tax Circle-2(3), Surat, Aaykar Bhawan, Majura Gate, Surat-395 001
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Shaunak K.Zaveri, CA
राजस्व की ओर से /Revenue by	Shri Ravi Kant Gupta- CIT-DR
सुनवाई की तारीख/Date of hearing	06.01.2025
उद्घोषणा की तारीख/Date of pronouncement	13.01.2025

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the order of National Faceless Appeal Centre, Delhi/Commissioner of Income tax (Appeals) [for short to as "NFAC/Ld.CIT(A)] dated 28.07.2023 for assessment year (AY) 2015-16, which in turn arises out of assessment order passed by Assessing Officer under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') 29.12.2017.
2. Rival submissions of both parties heard and record perused. The Ld. Authorized Representative (Ld.AR) of the assessee submits that Assessing Officer while passing the assessment order made addition under section 68 of the Act by treating the unsecured loan from various parties as unexplained

cash credit by taking view that assessee failed to substantiate the identity and creditworthiness of the lenders. The Assessing Officer also made disallowance on interest paid on such unsecured loans. The Ld.CIT(A) upheld the action of Assessing Officer.

3. The Ld.AR of the assessee submits that assessment has now filed application under Rule-29 of the Income Tax (Appellate Tribunal) 1963 for admission of additional evidence. In support his application, assessee has filed affidavit of Shri Ashokbhai Vallabhbai Gajera, partner of assessee-firm. The Ld. AR of the assessee submits that entire unsecured loan has been repaid by assessee in subsequent period by way of banking channel and nothing outstanding is left due as of now. Copy of details of repayment of unsecured loan in financial years 2016-17, 2017-18, 2018-19 and 2019-20 is placed on record at pages 1706 to 1921; copy of bank statement of Bank of Baroda and Axis Bank for financial year 2017-18 are also placed on record at pages 1922 to 1944 and 1945 to 1958. The Ld. AR of the assessee submits that these documents were not furnished before lower authorities by legal consultant of assessee for reason best known to him though it was available and provided to him for placing on record before Ld.CIT(A). All these evidences are material evidence and goes to the root of the case and are necessary for complete adjudicate the issue before Tribunal now. The Ld. AR of the assessee submits that assessee has a good case on merit and is likely to succeeds if one more opportunity is given to the assessee to bring the facts on record and to substantiate the facts that entire loan has been repaid and assessee has left no liability against lenders/ creditors. Thus, no

addition is liable to be sustained. The Ld. AR of the assessee submits that additional evidence may be admitted and may be verified by lower authorities. The Ld. AR of the assessee submits that even he has no objection if the matter restored back to the file of Assessing Officer for verification of fact and he undertakes on behalf of assessee to be more vigilant in future to furnish all details and to get it verify without seeking any further delay before Assessing Officer. The Ld. AR of the assessee submits that this Bench as well as Hon'ble jurisdictional High Court in a series of decisions has held that once repayment has not been doubted by lower authorities, addition of unsecured loan is not to be survived.

4. On the other hand, Ld. Commissioner of Income-Tax-Departmental Representative (Ld.CIT-DR) for the Revenue supported the order of lower authorities. The Ld.CIT-DR submits that there is categorical finding of lower authorities that assessee failed to prove identity, creditworthiness of all lenders. The alleged additional evidences, which is sought to be filed was available with the assessee and assessee has not disclosed any reason within the scope of Rule-29 of ITAT Rules, 1963. The Ld. CIT-DR prayer before the Bench to dismiss the application under Rule-29 and to confirm the addition made by lower authorities accordingly.
5. We have considered the rival submissions of both the parties and have gone through order of lower authorities carefully. We have also seen the various documentary evidence filed by assessee. First, we will consider the plea of Ld. AR of the assessee for admission of additional evidence. We find that alongwith the application of additional evidence, the assessee has filed

evidence regarding repayment of unsecured loan to all the lenders/creditors. As per the contention of assessee all the unsecured loans were repaid in financial years 2016-17, 2017-18, 2018-19 and 2019-20, to corroborated such repayment, assessee has placed on record copy of bank statement of Bank of Baroda and Axis Bank. We find that these evidences were not furnished before lower authorities. We further find that required evidence are material on record and essential of complete adjudication of the grounds of appeal raised by assessee. The lower authorities treated the unsecured loan as unexplained cash credit by doubting the identity or creditworthiness of various lenders. Thus, considering the fact that all the evidences furnished by assessee before us, goes to the root of the case and relevant for complete adjudication of various grounds of appeal raised by assessee. Therefore, considering the nature and relevancy of additional evidence furnished by assessee, the application for filing additional evidences are allowed. The additional evidences filed by the assessee are taken on record. Further, keeping in view the facts that these evidences of repayment of entire unsecured were not considered and verify by the lower authorities. Though, entire repayment of loan is made by way of banking channel. Therefore, we deem it proper to restore the issue back to the file of jurisdictional Assessing Office with direction to verify the fact and pass assessment order afresh in accordance with law. Needless to direct that before passing order afresh, the Assessing Officer shall allow reasonable opportunity to the assessee to be more vigilant and to make timely compliance of the notice issued by Assessing Officer. With these directions,

the grounds of appeal raised by the assessee is allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 13/01/2025.

Sd/-  
(BIJAYANANDA PRUSETH)  
लेखा सदस्य/Accountant Member

Sd/-  
(PAWAN SINGH)  
न्यायिक सदस्य/Judicial Member

सूरत / Surat Dated: 13/01/2025

Dkp Outsourcing Sr.P.S\*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

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By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय आधिकरण, सूरत