

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.391/Nag./2024**  
(Assessment Year : 2015-16)

Late Bhimandas Lahorimal Khatri  
By Legal Heir –  
Shri Bhavesh Bhimandas Khatri ..... Appellant  
Nassikkar Plot, Chatri Talav Road  
Amravati 444 606 PAN – ABIPK3860B

v/s

Income Tax Officer ..... Respondent  
Ward-3, Amravati

Assessee by : Shri R.B. Atal  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 27/01/2025

Date of Order – 10/02/2025

**ORDER**

**PER K.M. ROY, A.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 23/05/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2015-16.

2. In its appeal, the assessee has raised following grounds:-

*“1. That keeping in view the facts of the case, the addition of Rs.45,56,375/- u/s 68 of the IT Act made by AO and confirmed by CIT (Appeals) is improper, unjust and deserves to be cancelled.*

2. *The assessment made at Rs.51,76,480/- as against returned income of Rs.6,20,100/- is improper, unjust and deserves to be modified. The demand raised at Rs. 18,30,300/- is absolutely improper and deserves to be cancelled.*
3. *That the charging of penal interest under section 234A, 234B and 234C is improper, unjust and same be cancelled.*
4. *That the assessment by AO is bad-in-law. improper, unjust and deserves to be cancelled.*
5. *That any other ground/s as may be raised at the time of hearing."*

3. Facts in Brief:– The assessee is an individual and during the year under consideration, the assessee was involved in the business of stone crushing. The assessee filed his return of income on 10/02/2016, declaring total income of ₹ 6,20,102. It is observed that there is substantial increase in capital during the year. The assessee was asked to explain the capital so increased in response to which the assessee filed affidavit and stated that unsecured loan and subsidiaries investment was included in the capital doubly. As it was double accounting, thus he arrived at capital of ₹ 1,61,68515, instead of ₹ 3,56,60,213. It was found that there was double entry for capital and he also given confirmations of unsecured loan which was part of capital. However, the difference of ₹ 46,56,375, has remained as it was. The assessee filed his submissions which were considered by the Assessing Officer and while concluding the assessment the Assessing Officer held that the assessee always filed lopsided reply even to show cause. He further observed that the assessee did not arrive at proper conclusion. During the proceedings, the assessee was given ample opportunities to arrive at proper capital and explain it with all business affairs. Capital cannot be formed in one instance. It has many connotations. Capital represents the accumulated wealth of a business, represented by its assets less liabilities. Thus, the asset & liabilities

ought to have been explained with proper evidences which the assessee failed to do so. He further observed that opportunity was given to the assessee to explain the capital with assets; however, he never explained the asset and liabilities with evidence. From the following table it reveals that assessee never showed his business affairs in the return of income. He has not taken balance sheet seriously and hides the true affairs from the Department. Inadvertent mistake can be happened once or double, but here, the assessee has been doing so from many earlier years.

A.Y.	Liabilities		Assets	
	Total Share Capital	Secured / Unsecured loan	Fixed Asset	Other Asset
2010-11	46,45,507	14835035	67,18,623	12761919
2011-12	78,72,998	1265856	61,99,687	2939167
2012-13	68,41,130	849433	53,40,782	2349781
2013-14	93,16,445	1170160	95,75,497	911108
2014-15	1,13,82,974	1349937	1,16,05,236	1127675
2015-16	3,56,60,213	1829830	1,45,28,166	22961877

4. The Assessing Officer further held that the assessee has no proper explanation to offer and misleading the Department and not to offer correct picture of the total business. He held that even the assessee is not firm on his submission i.e., Capital Account. Therefore opening balance as shown below as on 01/04/2014, and closing balance as on 31/03/2014, shown in the return of income was considered by the Assessing Officer for calculating the unexplained cash credit to Balance Sheet and the difference which come to ₹ 45,56,375, which was added to the income of the assessee unexplained cash credit under section 68 of the Act.

Nasikkar Polt Chhatri Talao Road  
AMRAVATI-444606  
**Bhimandas L Khatri**  
Ledger Account

1-Apr-2014 to 31-Mar-2015

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
1-4-2014	By Opening Balance				1,59,39,349.53
16-7-2014	To Cash CASH	Payment	11	20,000.00	
20-8-2014	To Cash	Payment	12	20,000.00	
9-10-2014	To Cash	Payment	14	1,00,000.00	
30-11-2014	To Cash	Payment	15	1,00,000.00	
2-1-2015	By Akola Urban Co Op Bank Ch. No. :RTGS LIC	Receipt	9		1,12,800.00
20-1-2015	To Cash	Payment	18	2,50,000.00	
7-2-2015	To Siddhashree Stone Crusher TCS	Journal	4	5,625.00	
18-3-2015	To Akola Urban Co Op Bank Ch. No. :313811	Payment	22	1,703.00	
	To Akola Urban Co Op Bank Ch. No. :31310 LIC	Payment	23	12,823.00	
	To Akola Urban Co Op Bank Ch. No. :LIC 313809	Payment	24	73,681.00	
31-3-2015	To Cash TCS ON ROYALTY	Payment	27	16,104.00	
	By Profit & Loss A/c nett profit	Journal	18		6,16,302.00
	To Closing Balance			5,99,936.00	1,66,68,451.53
				1,60,68,515.53	
				1,66,68,451.53	1,66,68,451.53

5. On appeal, the learned CIT(A) observed that the assessee during the assessment proceedings tried to justify the increase in capital from ₹ 1,13,82,974 to ₹ 1,61,68,515, which is shown in the table below:-

Share Capital without including personal capital as on 31/03/2014	₹ 1,13,82,974
Share Capital after including personal capital as on 31/03/2014	₹ 1,59,39,349
Opening Balance as on 01/04/2014	₹ 1,59,39,349
Add: Credits = ₹ 729102	
Less: Debits = ₹ 499936	
Difference = ₹ 2,29,166	
Capital as on 31/03/2015 [₹ 159339349 + ₹ 2,29,166]	₹ 1,61,68,515

6. In view of the above, the learned CIT(A) held that dismissed the appeal of the assessee by observing as under:–

*"The appellant has tried to reconcile the discrepancy by adopting figures from so called books of accounts claimed to have been separately maintained by him. However, this issue of books has been suddenly raised during the year under consideration and they were not part of the earlier return of income. Verification of the consolidate balance sheet filed by the appellant reproduced above reveals that the appellant has claimed unsecured loans to the tune of Rs.85,20,496/-. However, perusal of the return of income reveals that no such unsecured loans are reflected in the return of income. The appellant has not filed any explanation regarding this discrepancy. The supplementary details filed by the appellant have no basis or documentary evidential value. In view of the above the contention of the appellant can not be accepted. Therefore, the action of AO in making addition of Rs. 45,56,375/- i.e. difference of opening balance of capital as on 01.04.2014 of Rs. 1,59,39,349/- and closing balance as on 31.03.2014 of Rs. 1,13,82,974/- is upheld. Ground no.1 and 2 of appeal is dismissed."*

The assessee being aggrieved is in appeal before the Tribunal.

7. Before us, the learned Authorised Representative submitted following documents which are listed below:–

*"1. Points in brief*

*2. Consolidated Balance sheet as per Books*

*3. Consolidated Balance sheet as per ITR*

*4. ITR of AY 2015-16 showing capital reported in Balance sheet*

*5. ITR of AY 2014-15 showing capital reported in Balance sheet*

*6. Balance sheet as on 31/03/2014 of proprietorship firm Siddhishri Stones, Shri Ganesh Stones & personal Balance sheet*

*7. Capital accounts as on 31-03-2014*

*8. Affidavit sworn by assessee filed before AO*

*9. AO's Notice dated 17/11/17 & its reply dated 23-11-2017*

*10. AO's Notice dated 20/12/17 & its reply dated 27-12-2017*

11. Submission before CIT (Appeals) dated 29/04/2024

12. Submission before AO dated 12/09/2017.”

8. However, the learned Authorised Representative for the assessee could not satisfactorily demonstrated as to how the observations of the learned CIT(A) are perverse. The learned Authorised Representative for the assessee failed to demonstrate that personal balance sheet is maintained for earlier years i.e., 31/03/2011, 31/03/2012. Sudden jump in Capital Account by mistake in balances creates an onerous responsibility upon the assessee to reconcile the same. He has miserably failed to do so. No interference is required in the order passed by the authorities below which are upheld by dismissing the grounds raised by the assessee.

9. In the result, appeal by the assessee stands dismissed.

Order pronounced in the open Court on 10/02/2025

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 10/02/2025**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury  
Sr. Private Secretary

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur