

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
AND SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**ITA No.2211/Mum/2024  
Assessment Year: 2012-13**

Income Tax Officer  Aayakar Bhavan, MK Marg, Mumbai- 400020.	Vs.	Sumangal Commodities Private Limited  A Wing, 1 <sup>st</sup> Floor, Shah Arcade, 1, Rani Sati, Malad, Maharashtra-400097.  PAN: AAGCS 4844 K
(Appellant)		(Respondent)

**C.O. No.192/Mum/2024  
(Arising out of ITA 2211/Mum/2024)  
Assessment Year: 2012-13**

Sumangal Commodities Private Limited  A Wing, 1 <sup>st</sup> Floor, Shah Arcade, 1, Rani Sati, Malad, Maharashtra-400097.  PAN: AAGCS 4844 K	Vs.	Income Tax Officer  Aayakar Bhavan, MK Marg, Mumbai- 400020.
(Appellant)		(Respondent)

**Present for:**

Assessee by : Dr. K. Shivaram, Sr. Advocate & Shri Rahul Hakani  
Revenue by : Shri Bhangapatil Pushkaraj Ramesh, Sr. DR

Date of Hearing : 18.12.2024

Date of Pronouncement : 21.02.2025

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

The appeal filed by the revenue and cross-objection filed by the assessee are directed against the order of Id. CIT(A), NFAC, Delhi passed u/s 250 of the Act. Both are adjudicated as under:

ITA 2211/Mum/2024 (A.Y. 2012-13) (Revenue's Appeal)

*“1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the addition of Rs. 1,71,00,000/- made by the Assessing Officer u/s.68 of the Income Tax Act, 1961 without appreciating the fact that the assessee has failed to prove the identity, creditworthiness and genuineness of the transactions.*

*2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) failed to appreciate the fact that the onus is on the assessee to explain and substantiate the genuineness and true nature of transaction of Unsecured Loans.*

*3. Whether on the facts of the case and erred in law, the Ld. CIT(A) allowed the appeal of the assessee despite the documentation supporting the claim of the assessee superficially.*

*4. Whether on the facts of the case and erred in law, the Ld. CIT(A)'s order itself is perverse as the same is not even based on the facts stated by the assessee during the appellate proceedings regarding payment of bogus unsecured loan received by the assessee.*

*5. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT (A) was justified deleting the addition of Rs. 1,71,00,000/- made by the Assessing Officer u/s.68 of the Income Tax Act, 1961 without calling for remand report from the AO as mandated under Rule 46A of the I.T. Act.*

*6. The appellant prays that the order of the CIT(A) on the grounds be set aside and confirm the order of the AO.*

*7. The appellant craves leave to add, amend or alter all or any of the grounds.”*

2. The case of the assessee was reopened by issuing of notice u/s 148 of the Act on 31.03.2017 on the basis of information gathered by the DGIT(Inv.), Mumbai that assessee company had obtained bogus entries / loan aggregating to Rs. 1,71,00,000/- from entities controlled / operated by Shri Vipul Vibhor Bhatt. The assessing officer asked the assessee to explain why the same

should not be treated as unexplained cash credit u/s 68 of the Act. The assessee explained that it had entered into all the transactions relating to loan with the parties as genuine transaction. The assessee further submitted that it has taken genuine business loan from two entities to the amount of Rs. 52,00,000/- only during the year under consideration which has been repaid in the same financial year. The assessee also explained that it has taken genuine business loan from two entities through banking channels and all details with confirmation, balance sheet, IT Returns acknowledgements and bank statement of the lenders have been submitted. It is also submitted Shri Vipul Vibhor Bhatt has already retracted his statement and no opportunity of cross examination of Vipur Vibhor Bhatt was provided to the assessee company. However, the AO has not agreed with the submission of the assessee and stated that assessee had obtained accommodation entries from the various parties to the amount of Rs. 1,71,00,000/- as under:

<i>Sl No</i>	<i>Name of the bogus entities</i>	<i>Name of the assessee/beneficiary</i>	<i>PAN</i>	<i>FY</i>	<i>Credit</i>
1	<i>Acute Consultancy Ltd.</i>	<i>Sumangal Commodities Pvt. Ltd.</i>	<i>AAGCS4844K</i>	<i>2011-12</i>	<i>4400000.00</i>
2	<i>Lunkad Textiles Pvt. Ltd.</i>	<i>Sumangal Commodities Pvt. Ltd.</i>	<i>AAGCS4844K</i>	<i>2011-12</i>	<i>3600000.00</i>
3	<i>P. Saji Textiles Limited</i>	<i>Sumangal Commodities Pvt. Ltd.</i>	<i>AAGCS4844K</i>	<i>2011-12</i>	<i>2500000.00</i>
4	<i>Sampada Chemical Limited</i>	<i>Sumangal Commodities Pvt. Ltd.</i>	<i>AAGCS4844K</i>	<i>2011-12</i>	<i>2600000.00</i>
5	<i>Victory Sales Pvt. Ltd.</i>	<i>Sumangal Commodities Pvt. Ltd.</i>	<i>AAGCS4844K</i>	<i>2011-12</i>	<i>4000000.00</i>
	<i>Total</i>				<i>17111111.00</i>

3. The AO has referred the statement of Shri Vipul Vibhor Bhatt wherein he accepted that bogus accommodation entries were provided to various beneficiaries through the various entities controlled and operated by him. The AO also stated that notice u/s 133(6) of the Act were issued to the above referred entities calling various details and confirmation pertaining to the loan transaction however no compliances were made. Therefore, the AO stated that assessee had received bogus unsecured loan of Rs. 1,71,00,000/- from above mentioned various parties and during the course of assessment proceedings, the assessee could not prove genuineness, creditworthiness and identity of the parties. Therefore, whole unsecured loan of Rs. 1,71,00,000/- was treated as bogus and added to the total income of the assessee u/s 68 of the.

4. The assessee filed appeal before the Id. CIT(A). The Id. CIT(A) after considering the various details and relevant supporting documentary evidences furnished by the assessee held that during the year under consideration the assessee had taken loan of Rs. 52,00,000/- only and the remaining amount of loan of Rs. 1,19,00,000/- was taken in the earlier years. The assessee had submitted the ledger copies and bank statement of each parties from whom the loans have been taken and these ledger copies were certified by the respective parties. The Id. CIT(A) has deleted the whole addition on the ground that loans obtained in the earlier years cannot be disallowed during the year under consideration and further the loan which were obtained during the year were

repaid to the lenders through banking channel and assessee has also submitted the relevant supporting documentary evidences.

5. During the course of appellate proceedings before us, the Id. Counsel submitted that loan received during the year was only Rs. 52,00,000/- and not Rs. 1,71,00,000/-. Therefore, he contended that Id. CIT(A) has rightly deleted the addition of Rs.1,19,00,000/-. The Id. Counsel further submitted that in respect of loan of Rs. 52,00,000/-, the assessee has proved the identity of lenders, genuineness of the transactions and creditworthiness of the lenders by filing copies of income tax acknowledgements, ledger confirmation, bank statement etc.

6. On the other hand, Id. DR supported the order of assessing officer.

7. Heard both the sides and perused the material on record. Without reiterating the fact as already discussed, it is undisputed fact that loan amount of Rs. 1,19,00,000/- was received by the assessee in the earlier years as demonstrated from the documentary evidences filed by the assessee. Therefore, we do not find any infirmity in the decision of Id. CIT(A) holding that loan amount received during the earlier years cannot be considered as income u/s 68 during the year relevant to the assessment year under consideration.

8. Even before the assessing officer, the assessee has categorically submitted that during the previous year relevant to

the assessment year under consideration, it had received Rs. 52,00,000/- only as loan from the said parties. However, we find that during the course of appellate proceedings before the Id. CIT(A), the assessee has filed additional evidences under Rule 46A of the Act on 11.06.2023 i.e. affidavits of the directors of lender companies as placed in the paper book from page no. 172 to 197 along with the other copies of document like income tax acknowledgement etc. We consider that Id. CIT(A) has neither made reference of these additional evidences filed Rule 46A in his order nor called any remand report from the assessing officer before deleting the impugned addition to the extent of Rs. 51,00,000/-. Therefore, to the extent of new loan obtained by the assessee during the year under consideration of Rs. 51,00,000/-, we remand the matter back to the file of the Id. CIT(A) for deciding the same after providing opportunity to the AO by calling remand report on the new evidences filed before the Id. CIT(A). Therefore, the appeal of the Revenue is partly allowed for statistical purposes.

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9. The assessee has filed cross objection on the validity of reopening of assessment. There was delay of 30 days in filing the cross objection. The assessee filed affidavit explaining that after relieving ground of appeal, assessee was under impression that cross objection was to be filed within 60 days as against the time period of filing the same within 30 days of receiving of ground of appeal filed by the department. Considering the fact reported in

the affidavit, we find that there is a bona fide reason for delay in filing the cross objection by 30 days. Therefore, the delay in filing the cross objection is condoned. Since we have adjudicated the appeal on merit and only part of the addition pertaining to the year under consideration is restored to the file of the ld. CIT(A) to decide after calling remand report from the assessing officer because of additional evidences filed by the assessee before the ld. CIT(A) as discussed. Therefore, the cross objection filed by the assessee is not required adjudication.

10 In the result, appeal of the Revenue is partly allowed and the cross-objection of the assessee is dismissed.

Order pronounced in the open court on 21.02.2025.

**Sd/-**  
**(RAJ KUMAR CHAUHAN)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Date: 21.02.2025  
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

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By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai