

**IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI BENCH  
VIRTUAL HEARING MODE**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.290/RAN/2024  
Assessment Year: 2017-18**

Vivek Industries & Co. C.D Singh Colony, Dhayia Bartand, Dhanbad, Jharkhand - 826001. (PAN: AADFV2528B)	Vs	DCIT/ACIT,Circle-1 Dhanbad
<b>(Appellant ) (Respondent)</b>		

**Present for:**

Appellantby : Shri Devesh Poddar, Advocate  
Respondent by : Shri Khubchand T. Pandya, Sr. DR

Date of Hearing : 06.03.2025  
Date of Pronouncement : 06.03.2025

**ORDER**

**PerBench :**

This is an appeal filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "the Ld. CIT(A)"] vide order no. ITBA/NFAC/S/250/2024-25/1065080766(1) dated 22.05.2024 passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2017-18.

2. Shri Devesh Poddar, Advocate appeared on behalf of the assessee and Shri Khubchand T. Pandya, Sr. DR appeared on behalf of the revenue.

3. It was submitted by the Ld. AR that the assessee is a partnership firm which is engaged in real estate business. For the assessment year 2017-18, the assessee has shown an introduction of capital by the Managing partner of this firm Shri Vivek Mahan to an extent of Rs. 4.00 Crore. The Assessing Officer asked the assessee to explain the introduction of capital of Rs. 4 Crore. The assessee submitted that it was actually a mistake in so far as the managing partner had transferred certain lands to the firm during the assessment year 2010-11 but unfortunately the entry was made only during the impugned assessment year. It was a submission of the Ld. A.R. that as no land having a value of Rs. 4 Crore had been shown in the Balance Sheet of the assessee, the Assessing Officer disbelieved the transaction and treated the capital introduced as unexplained cash credit. It was the submission that the capital introduction of a partner in the firm per se can never be treated as unexplained cash credits in the hands of the firm until and unless it is shown that the said partner has denied introducing the capital or is incapable of introducing such capital. It was submitted that the issue of whether the asset is registered in the name of the partnership firm or the capital introduction by the managing partner of the firm Shri Vivek Mahan. It was the submission of the Ld. AR that the addition in any case, is not permissible in the hands of the firm.

4. In reply, the Ld. CIT, DR vehemently supported the orders of the lower authorities.

5. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that in the audited accounts of the assessee, the capital has been introduced in the balance sheet to an extent of Rs. 4 Crore by Shri Vivek Mahan. The Assessing Officer neither examined Shri Vivek Mahan nor has brought the confirmation from him that he has not introduced the capital nor has the Assessing Officer

shown that Shri Vivek Mahan is incapable of introducing a capital of Rs. 4 Crore. In fact, the AO recognizes that there has been some transaction of land between the managing partner and the firm. The only issue is as to whether the property has been transferred in the name of the partnership firm or whether the managing partner is holding the said land on behalf of the partnership firm. It is undisputed that the value of the said land which is being alleged to have not been transferred in the name of the partnership firm is Rs. 4 Crore. Consequently, it is clear that the said Shri Vivek Mahan has the capacity to introduce a capital of Rs. 4 Crore in the firm of the land and, therefore, the said entry of the capital introduction of Rs. 4 Crore in the hands of the firm cannot be treated as unexplained cash credit in the hands of the firm in so far as the capital introduction by the managing partner who introduced the share capital. Therefore, the addition of Rs. 4 Crore as made by the Assessing Officer and as confirmed by the Ld. CIT(A) stands deleted.

6. In regard to the second issue regarding the disallowance of the proportionate interest on the said capital introduction of Rs. 4 Crore, since we have already deleted the main addition, consequently, the said proportionate disallowance would also stand deleted.

7. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court.

Sd/-

Sd/-

(Ratnesh Nandan Sahay)  
Accountant Member

(George Mathan)  
Judicial Member

***Dated: 6<sup>th</sup> March, 2025***

JD, Sr. P.S.

Copy to:

1. The Appellant: Vivek Industries & Co.

2. DCIT/ACIT, Circle-1 Dhanbad
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Ranchi Bench, Ranchi
6. Guard file.

True Copy

By Order

AssistantRegistrar  
ITAT, Ranchi