

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Makarand Vasant Mahadeokar, Accountant Member**

**ITA No: 1012/Ahd/2024
Assessment Year: 2016-17**

Sukirti Polymers Survey No. 72, Malalpur Village, Bareja-Kheda Road, Kheda, Gujarat-387650 PAN: ACOFS7127A (Appellant)	Vs	The Pr. Commissioner of Income Tax-1, Vadodara (Respondent)
------------------------------------------------------------------------------------------------------------------------------------------------------	----	---------------------------------------------------------------------------------

**Assessee Represented: Shri Assem L Thakkar, A.R.
Revenue Represented: Shri A. P. Singh, CIT-DR**

Date of hearing : 18-02-2025
Date of pronouncement : 25-03-2025

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the revision order dated 15.03.2024 passed by the Principal Commissioner of Income Tax-1, Vadodara arising out of the reassessment order passed under section 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2016-17.

2. Brief facts of the case is that the assessee is a Partnership Firm engaged in the business of Polymers manufacturing of HDPE

Fabrics/Bags. The assessee filed its original Return of Income on 17-10-2016 declaring Nil income. During the year, the assessment has shown turnover of Rs. 6,99,01,834/-, shown other income of Rs.1,08,97,601/- and net profit of Rs.2,89,208/-. Regular assessment u/s. 143(3) was made on 12-07-2017 accepting the returned income. The Return of Income was reopened since there is escapement of income on account of claim of depreciation and loans and advances received are genuine from disclosed sources. Hence a notice u/s. 148 was issued on 27-03-2021.

2.1. During the reassessment proceedings, the assessee furnished copies of confirmation of unsecured loan from M/s. Anand Infrastructure, Ledger account, copies of ledger account of Mayur Mavji and copies of bank statements as Cosmos Cooperative Bank. Further verification of the same, reassessment u/s. 147 was completed on 22-03-2022 making Nil assessment. Perusal of the above order, Ld. PCIT noticed that the assessee received an amount of Rs. 65,00,000/- as unsecured loan from Mayur Mavji which is shown to be squared off during the relevant year. On going through the bank account statement of Cosmos Cooperative Bank that no amount received from Mayur Mavji is reflected. But assessee claims to be received from M/s. Anand Infrastructure but the Audit Report in Form 3CD, the credit balance of Rs. 65,00,000/- is written off in the case of Mayur Mavji. Thus the assessee failed to apply his mind while passing the reassessment order which is erroneous and prejudicial to the interest of Revenue. Therefore a show cause notice dated 06-02-2024 was issued to the assessee.

3. In reply the assessee submitted as follows:

1.1 Originally the case of the assessee was selected for the scrutiny assessment for the limited purpose under CASS to investigate the following two issues.

- (i) Whether on account of depreciation is admissible
- (ii) Whether Loans and advances received are genuine and from disclosed sources

1.2. During the course of assessment proceedings, the AO vide notice dtd: 07.12.2018 (Page 1 to 2) asked at point No.2 with regard to the alleged loan transaction of Mayur Mavji of Rs.65 lakhs. In response to the same, the assessee filed a reply on 18.12.2018 (Page 3) in which he explained as under at point no.4

04 Regarding confirmation of Sharda Saw Mill and Mayur Madhvji, the firm has not obtained loan from these parties during the current financial year and same was not provided. However, copies of ledger account ackw. Duly signed by Ms. New Sharda Saw Mill are submitted here with. Additionally, loan obtained from Mayur Mavji was moved in past and he was not contacted when we had tried in contact him for repayment, **accordingly the same amount was written off and considered as income of the current financial year.**

We hope that above clarification and information for finalization of scrutiny assessment. You may inform us for any further information and clarifications from our end.

The assessee explained that it has offered the **amount of Rs 65 lakhs as his income**. The relevant portion of Audit report (Page 4 to 6) is embedded hereunder;

Note-1: OTHER INCOME	
Loan Account written off	65,00,000
Trade Discount Income	54,348
Dividend (Income Cosmos Bank Shares)	2500
Kasar/vatav	62
	6556910

Thus, **the assessee has already included the alleged amount of Rs.65 lakhs as its income voluntarily**. After verifying the facts and considering the explanation, the AO passed an assessment order on 21.12.2018 under section 1:43(3) (Page 7 to 8) without making any addition.

[B] Reassessment u/s 147:

2.1 The case of the assessee was selected once again for scrutiny assessment u/s 147 to verify the loans and advances. During the course of reassessment proceedings, vide notice dtd 22.03.2022 (Page 9 to 10), the AO once again asked for the same details of the alleged loan transaction. In recourse to the same, the co-operative assessee filed a reply dtd 23.03.20022 (Page 11) in which he **filed all the requisite details and explained that the alleged amount of loan transaction of Rs.65 lakhs had been offered for income.**

2.2 Once again, the AO passed an order u/s 143(3) r.w.s 147 on 27.03.2022 (Page 12 to 14) without making any addition/disallowance. **The AO completed applied his mind and accepted the returned income including the alleged transaction of loan of Rs.65 lakhs.**

3.1. Thus the Assessing Officer categorically investigated the specific loan transaction during the course of original assessment proceedings as well as during the reassessment proceedings and satisfied with the explanation offered by the assessee. Therefore no addition is being made so that, there is no error in the order passed by the Assessing Officer which is prejudicial to the interest of Revenue. Whereas the assessee offered the sum of Rs. 65,00,000/- under other incomes, therefore the Revision proceedings initiated is liable to be dropped. The Ld. CIT(A) though reproduced the above reply of the assessee, but directed the Assessing Officer to revise the assessment order. Since the credit entry of Rs. 65 lakhs received in the bank account of the assessee from another entity namely M/s. Anand Infrastructure and there is no mention of the same in the audit report. The A.O. has failed to apply his mind to the said anomaly and make further verification and the source of funds received from M/s. Anand Infrastructure. Therefore Ld. PCIT set aside the reassessment order with a direction to A.O. to pass fresh assessment order by giving opportunity of hearing to the assessee.

4. Aggrieved against the Revision order, the assessee is in appeal before us raising the following Grounds of Appeal:

1. The Learned Pr. Commissioner of Income Tax, Vadodara 1 has erred in passing an order u/s.263 of the LT. Act, 1961 setting aside the Assessment Order passed u/s.147 r...w.s.144 r.w.s. 144B of the L.T. Act, 1961 dated 27.03.2022 and directing the Assessing officer to make fresh assessment order after conducting independent inquiry in respect of unsecured loan mentioned in audit report in the name of Mayur Mavji and squared off during relevant period and the amount of Rs.65,00,000/- received from Anand Infrastructure with the relevant bank statement.

2. The Learned Pr. Commissioner of Income, Vadodara 1, has erred in passing an order u/s.263 of the L.T. Act, 1961 since the issues sought to be revised have been examined in the original assessment wherein it was voluntarily offered to tax and it was explained at the time of reassessment proceedings also hence the same being illegal and bad in law requires to be quashed.

3. The Learned Pr. Commissioner of Income Tax, Vadodara-1 has erred in not appreciating the fact that all information and related material and evidences had been furnished at the time of original assessment as well as reassessment stage relating to the issues raised in the revision proceedings. The A.O. after examining the evidences and other material considering the same after due application of mind has passed the assessment order.

4. The Learned Pr. Commissioner of Income Tax, Vadodara -1 has erred in not considering the facts that assessment has been made by the Assessing Officer after verification of records, documents, material and evidences produced by the appellant during the course of assessment proceeding for which revision proceedings have been initiated.

5. The Learned Pr. Commissioner of Income Tax Vadodara -1 has erred in passing an order u/s.263 of the Act directing the A.O. to conduct the independent inquiry with Anand Infrastructure for the credit entry of Rs.65,00,000/- in Bank account of appellant as per requirement of Sec.68 of the Act and holding that the same should have been brought to tax as unexplained cash credits which the Assessing Officer failed to do so.

6. The Learned Pr. Commissioner of Income Tax, Vadodara 1 has erred in not considering the fact that issue raised by him in revision proceedings in respect of unsecured loans in question has already been examined and explained as the same was voluntarily offered to tax in the original assessment u/s.143(3) of the Act and also explained and examined by the assessing Officer at the time of reassessment proceedings.
7. The Learned Pr. Commissioner of Income Tax, Vadodara -1, has erred in initiating revision proceedings u/s. 263 of the Act on issues which has already been covered in assessment as well reassessment proceedings.
5. We have heard rival submissions and perused the materials available on record including the Paper Book and the replies filed by the assessee. It is seen from Page No. 5 of the balance sheet, the other incomes declared by the assessee of Rs. 65,56,910/- in which loan account written off is Rs. 65 lakhs which is offered for taxation under the head "Other Income" (which is available at Page No. 5 & 6 of the Paper Book). During the reassessment proceedings vide reply dated 23-03-2022, the assessee replied as follows:
- "03. Copies of Ledger a/c. of Mayur Mavji in our books is enclosed. We have to inform you that the said amount was received in our bank a/c. through other firm M/s. Anand Infrastructure. Instead of payment to respective loanee, the said amount was directly received from M/s. Anand Infrastructure.
05. Unsecured loan of Rs.65 lakhs received from Mayur Mavji was squared off during the year and accounted as income for that year. When we were comfortable for repayment, the said party could not be contacted and hence firm at the end of the year it was decided to write off the said amount and accounted as income for that year."
- 5.1. Based on the same, the A.O. has not made addition on this count and passed reassessment order dated 27-03-2022 accepting the returned income. Since the assessee has voluntarily offered to

tax, there is no question of any prejudicial to the interest of Revenue and Ld. PCIT failed to demonstrate how the reassessment order passed by the A.O. as erroneous, but without verification of records, documents, and evidences produced by the assessee during the assessment proceedings. Therefore the entire Revision proceedings is without legal basis and is liable to be quashed.

6. In the result, the appeal filed by the Assessee is hereby allowed.

Order pronounced in the open court on 25-03-2025

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER
Ahmedabad : Dated 25/03/2025

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद