

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

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 1345/SRT/2024
(Assessment Year: 2016-17)

Arochem Industries, Plot No. 154, GIDC, Vapi, Gujarat-396195	Vs.	Income Tax Officer, Ward-1, Vapi
[PAN No. AAEFA9359E]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Rasesh Shah, C.A.
Respondent by:	Shri Mukesh Jain, Sr. DR

Date of Hearing	24.03.2025
Date of Pronouncement	25.03.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax(Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 26.11.2024 passed for A.Y. 2016-17.

2. The brief facts of the case are that during the course of assessment, the Assessing Officer noted that on the basis of information available on record, the assessee had deposited cash amounting to Rs. 20,37,140/- in his bank account maintained with Bank of Baroda bearing A/c. No. 03900100007445. In response to notice issued under Section 142(1) of the Act, the assessee submitted that on enquiring with the bank, the assessee found out that the bank account referred to by the Assessing Officer in his 142(1) notice, was a saving bank account in the name of Shri Anup S.

Gandhi, who is the brother of the partner Shri Nilesh S. Gandhi. The assessee firm submitted that Mr. Anup Gandhi is not involved in the business of Arochem Industries. It was on account of a mistake committed by the bankers that they had quoted the PAN of the assessee i.e. Arochem Industries, instead of Mr. Anup Gandhi. Accordingly, since this account does not belong to the assessee, it was only on account of mistake committed by the bankers that the PAN of the assessee had been incorrectly quoted in such bank account, no addition is liable to be made in the hands of the assessee. However, the Assessing Officer did not agree with the reply filed by the assessee and confirmed the additions in the hands of the assessee, with the following observations:

“...The assessee was also unable to prove with convincing documentary evidences that the above bank account is not related to it. IN spite of several opportunities provided to him, the assessee failed to discharge his onus to prove the source of above cash deposits available in his bank accounts during F.Y. 2015-16. In view of above and also in the absence of specific details regarding source of cash, ledger a/c and other supporting evidences, it is not possible to verify the genuineness of the source of these cash deposits. In view of above facts the source of cash deposits available in bank accounts of assessee during F.Y. 2015-16 remained unexplained. Therefore, I am satisfied to make addition of the above amount of Rs. 20,37,140/- treating the same as unexplained money U/s 69A of the Income Tax Act, 1961 and the same is added to the total income of the assessee for the A.Y. 2016-17. Penalty proceedings u/s. 271(1)(c) of the Act are initiated separately on this issue for willful concealment of income.”

3. In appeal, Ld. CIT(A) confirmed the additions in the hands of the assessee.

4. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(A).

5. Before us, the Counsel for the assessee submitted that the issue is directly covered in favour of the assessee by order of Jurisdictional Surat

Tribunal in assessee's own case for A.Y. 2017-18 and 2015-16, wherein on the very same set of facts, Surat Tribunal had given a finding that such bank account did not belong to the assessee and hence deposits made in such bank account could not be added as income of the assessee. Accordingly, in light of Jurisdictional Surat Tribunal decision on identical set of facts in assessee's own case, the additions proposed to be made by the Assessing Officer is liable to be deleted.

6. In response, Ld. D.R. placed reliance on the observations made by the Assessing Officer and Ld. CIT(A) in their respective orders.

7. On going through the facts of the instant case, we observe that the issue is directly covered in assessee's own case in view of the decision of Jurisdictional Surat Tribunal in assessee's own case for A.Y. 2017-18 wherein on same set of facts, additions have been directed to be deleted by the Surat Tribunal. It would be useful to reproduce the relevant extracts of the decision passed by Surat Tribunal in the case of **Arochem Industries vs. ITO in ITA No. 772/Srt/2023** vide order dated 09.02.2024, in which relief was allowed to the assessee:

*“7. I have heard the rival arguments made by both the sides and perused the material available on record. Admittedly, the Assessing Officer during the assessment proceedings, wrongly made addition in the hands of assessee-firm, as the assessee-firm, was not in existence, during the assessment year (AY).2017-18. The assessee was partnership firm engaged in the business of manufacturing of Chemicals. It was converted into a Private Limited Company namely Arochem Industries Private Limited, under part IX of the companies Act 2013 on date 12.03.2014. On receiving the notice u/s 148, the assessee filed a written submission before the assessing officer stating this fact and that since the firm had ceased to exist after conversion, it was not required to file its return of income for AY.2016-17 and 2017-18. **During the course of assessment, the AO informed that there were cash deposits to the tune of Rs.17,82,600/- made by assessee in savings account with Bank of Baroda Account No.03900100007445, during the year under***

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consideration. The AO had himself called for the details regarding this bank account and he found that it was a savings account in the name of Anup S Gandhi. However, the PAN mentioned in this savings account as per the records of the bank, was of the assessee-firm Arochem Industries. Now, Mr. Anup S. Gandhi is the brother of partner of the assessee- firm Mr. Nilesh S. Gandhi. But Mr. Anup was not at all involved in the business of Arochem Industries and had nothing to do with the assessee-firm. Actually Arochem Industries was banking with Bank of Baroda C P Tank Branch for the last three decades, and so since Anup was a member of Gandhi family, the bankers may have put the PAN of Arochem Industries while opening his savings bank account. It is absolutely illogical and impossible to believe that the partnership firm could have a savings bank account considering the guidelines of RBI. So it is the banker's mistake that they used the PAN of the assessee- firm to open this savings bank account in the name of Anup S Gandhi. The transactions in this account do not belong to the assessee-firm and so cannot be considered as the transactions of the assessee firm just because the bankers recorded wrong PAN number. Based on these factual position, I delete the addition of Rs.17,82,600/-.

8. In the result, the appeal of the assessee is allowed.”

8. In light of the aforesaid observations made by Surat Tribunal vide order dated 09.02.2024, the additions made by the Assessing Officer are liable to be deleted.

9. In the result, the appeal of the assessee is allowed.

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 25/03/2025

Sd/-

**(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER**

Ahmedabad; Dated 25/03/2025

TANMAY, Sr. PS

TRUE COPY

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat