

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं. / ITA No. 55/Agr/2014
(निर्धारणवर्ष / Assessment Year: 2009-10)

ACIT, Circle-2, Gwalior.	बनाम/ Vs.	M/s. K.S. Real State Pvt. Ltd. 301, Silver Arc Plaza, 20/1 New Palasia, Indore
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AACCK-8216-D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Dr. Arun Kumar Yadav – Ld. CIT-DR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Sanjay Kumar, CA – Ld. AR

सुनवाईकीतारीख/ Date of Hearing	:	19-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	22.04.2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year (AY) 2009-10 arises out of an order passed by Ld. Commissioner of Income Tax (Appeals), Gwalior [CIT(A)] on 12-12-2013 in the matter of an assessment framed by Ld. AO u/s 143(3) r.w.s. 153A of the Act on 16-11-2011. The sole grievance of the revenue is deletion of addition made by Ld. AO u/s 68 for Rs.47.83 Lacs and Rs.12.41 Crores respectively. Having heard rival submissions, the appeal is disposed-off as under. The assessee group was subjected to search action u/s 132 on 11-03-2010 on the basis of which impugned assessment was framed. The order of Ld. CIT(A) is based on assessee’s submissions as well as remand report of Ld. AO.
2. The assessee company is associated entity of M/s K.S. Oil Mills of Gwalior. The assessee reflected unsecured loans of Rs.47.83 Lacs and

Sundry Creditors for Rs.12.41 Crores. The assessee adduced various evidences to demonstrate the genuineness of the entities; however, Ld. AO added both these items to the income of the assessee u/s 68. The unsecured loans were taken from M/s Ashish Rasnidhi Enterprises and M/s Chahat Infrastructure Pvt. Ltd. The Sundry Creditors were represented by sole entity by the name M/s Nirmal Lifestyle Indore Pvt. Ltd.

3. The Ld. CIT(A), in the light of assessee's elaborate written submissions as well as remand report of Ld. AO, rendered its adjudication on unsecured loans in para-9. It was held that the assessee discharged the onus of proving the identity, capacity and creditworthiness of the loan creditors. The assessee duly furnished confirmation, bank statement of lender, income tax returns, final accounts of both the lenders and assessment orders in their respective cases which were passed by same Assessing officer. On these facts, the impugned addition of Rs.47.83 Lacs was deleted.

The adjudication on sundry creditor has been rendered in para-13 of the impugned order. It was noted that during the course of assessment proceedings, the assessee submitted ledger extract, confirmation letter, bank statement and audited accounts of the creditor. On perusal of these documents, it emerges that the assessee successfully established the genuineness of the transactions. The outstanding amount represent advance received against sale of land which was duly been reflected in the financial statements of the creditors. The Ld. AO did not establish that the assessee introduced its unaccounted income in the form of sundry creditor. Accordingly, the impugned addition was deleted against which the revenue is in further appeal before us.

4. The aforesaid findings as rendered by Ld. CIT(A) remain uncontroverted before us. The adjudication is based on documents furnished by the assessee during assessment proceedings as well as during remand proceedings. It could be seen that the assessee was successful in discharging the onus of proving the primary ingredients of Sec.68 with respect to unsecured loans as well as sundry creditor. This being so, we see no reason to interfere in the impugned order, in any manner.

5. The appeal stand dismissed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखासदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA