

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER**

I.T.A. No.336/Ahd/2025
(Assessment Year: 2017-18)

Delta Developers, 9, Darji Society, Opp: Anaj Market Shopping Centre, Dahod-389151	Vs.	Income Tax Officer, Ward-1, Dahod
[PAN No.AAJFD3019M]		
(Appellant)	..	(Respondent)

Appellant by :	Shri M.K. Patel, A.R.
Respondent by:	Shri Ravindra, Sr. DR

Date of Hearing	05.05.2025
Date of Pronouncement	08.05.2025

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)”), Ahmedabad vide order dated 28.10.2024 passed for A.Y. 2017-18.

2. At the outset, we observe that the appeal is time barred by 44 days. The delay of 44 days is condoned on due consideration of facts and owing to smallness of delay causing no perceptible prejudice to other side.

3. The Assessee has taken the following grounds of appeal:-

“1. The Learned Commissioner of Income Tax (Appeals) erred in dismissing the appeal despite the amendment made in Section 251 by the Finance Act-2 of 2024 wherein the Honourable CIT(A) has been given powers to set aside the assessment in case of orders passed u/s 144.

2. The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs. 7,00,000/- u/s 69A and Rs.11,00,000/- u/s 68 of the Act.

3. The Learned Commissioner of Income Tax (Appeals) erred in confirming the addition and taxing this u/s 115BBE of the Act.

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4. *The Learned Commissioner of Income Tax (Appeals) erred in not set aside the appeal in respect of order passed u/s 144.*

5. *The appellant firm craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal.”*

4. The brief facts of the case are that during the course of assessment, the Assessing Officer observed that there were cash deposited amounting to Rs. 7,00,000/- in the bank account of the assessee. Further, the Assessing Officer observed that the assessee had taken unsecured loans of Rs. 11,00,000/- from Shri Ashish S Desai. On asking for the requisite details, the Assessing Officer observed that assessee failed to give any explanation about the nature and source of cash deposits and also failed to submit confirmation from Shri Ashish S Desai. Therefore, the Assessing Officer held that since the assessee has failed to prove the source of cash deposits and also failed in establishing the identity of the loan creditor, he added the sum of Rs. 18,00,000/- as undisclosed income of the assessee under Section 69A and 68 of the Act, respectively.

5. In appeal, Ld. CIT(A) issued as many as six notices of hearing which all remained uncomplished with. Accordingly, Ld. CIT(A) confirmed the addition in the hands of the assessee with the following observations:

“4.6 During the appellate proceedings, the appellant has not produced the relevant evidences to rebut the said finding of the AO. Hence, I am of the considered view that the appellant did not discharge his onus of proving why the cash deposit of Rs.7,00,000/- on 22.11.2016 should not be considered as unexplained money within the meaning u/s 69A of the Act. Hence, the addition of Rs. 7,00,000/- made by the AO as unexplained money is sustainable. Further, the appellant has failed to prove the identity of the loan creditor and the genuineness of the unsecured loan transaction and the credit worthiness of the loan creditor by way of submitting necessary documentary evidences. Hence, I am of the considered view that the addition of Rs. 11,00,000/- as unexplained cash credit by the AO is also sustainable.

4.7 Hence, respectfully following the above mentioned judicial pronouncements and in view of the facts of the case, the grounds of appeal filed by the appellant are hereby dismissed.

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5. *In the end result, the appeal of the appellant is hereby dismissed.*”

6. Before us the Counsel for the assessee submitted that admittedly there was an inadvertent error on part of the assessee in causing appearance before the Lower Authorities. This was on account of error on part of the assessee to check his email on regular basis.

7. On going through the case records, we are of the considered view that admittedly there was error on part of the assessee in not causing appearance before the Assessing Officer as well as before the Ld. CIT(A). Accordingly, we are inclined to impose a cost of Rs. 5,000/- on the assessee for getting the matter set-aside to the file of Assessing Officer, in the interest of justice.

8. The assessee would be required to pay a sum of Rs. 5,000/- to be deposited in the Prime Minister Relief Fund for getting the matter set-aside to the file of Ld. CIT(A).

9. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on 08/05/2025

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad; Dated 08/05/2025

TANMAY, Sr. PS

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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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad