



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER.**

&

DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.739/RJT/2024

निर्धारणवर्ष / Assessment Year: (2014-15)

Sunbond Ceramic Pvt.Ltd SurveyNo.295 Paiki 1, Opp. Kajariya Sanitary, Jasmatgadh, Morbi-363642	बनाम Vs.	Joint Commissioner of Income- tax, Range, Morbi- 363642
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AATCS1098J		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारितकीओरसे / Assessee by : Shri Chetan Agarwal, Ld. AR

राजस्वकीओरसे / Revenue by : Shri Abhimanyu Singh Yadav, Ld. Sr-DR

सुनवाईकीतारीख/ **Date of Hearing** : **24/02/2025**

घोषणाकीतारीख/ **Date of Pronouncement** : **21/05/2025**

आदेश/Order

Per Dr. Arjun Lal Saini, A.M.;

Captioned appeal filed by the assessee, pertaining to Assessment Year 2014-15, is directed against order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income-tax(Appeal), dated 18.09.2024, which in turn arises out of an order passed by the Assessing Officer u/s 143(3) of the Act, on 28.12.2016.

2. Grounds of appeal raised by the assessee are as follows:

“1. Learned CIT(A) erred in law as well as on facts in upholding the addition of Rs.1,24,30,000/- u/s. 68 of the Act made by Ld. assessing officer .



2. Learned CIT(A) erred in law as well as on facts in upholding the addition of Rs.1,06,229/-, as income from other sources on the basis of from no. 26AS,as made by the Ld. assessing officer .

3. Learned CIT(A) erred in law as well as on facts in upholding disallowance of Rs.41,277/-, u/s.40(a)(ia) of the Act, as made by the Ld.assessing officer .”

3. At the outset, Ld. Counsel for the assessee, informs the Bench that assessee do not wish to press ground Nos.2 and 3, therefore ground Nos. 2 and 3 of the assessee, are dismissed as “not pressed”.

4. The brief facts *qua* ground No.1 are that assessee before us, is a company and engaged in manufacturing of ceramic tiles. The assessee has been e-field its return of income for the year under consideration, on 25.09.2014,declaring income at Rs. NIL. The return of income was processed u/s. 143(1) of the Act accepting the returned income. Later on, the assessee`s case was selected under CASS for scrutiny assessment and a notice u/s. 143(2) of the Act, was issued on 01.09.2015 and was duly served upon the assessee. Subsequently, notices u/s. 142(1) of the Act were issued which were duly served upon the assessee.

5. In response to the notices issued, the assessee attended the assessment proceedings from time to time and furnished the required details. The books of accounts of the assessee are audited as per the requirement of section 44AB of the I.T. Act. The copy of audit report in Form No. 3CB & 3CD was submitted before the assessing officer. On perusal of the details furnished during course of assessment proceedings, it was observed by the assessing officer that for the year under consideration, the assessee has raised new Equity Share Capital of Rs.5,00,00,000/- and unsecured loan of Rs.72,00,000/-. Hence, the assessee was requested to submit duly signed confirmations along with necessary details like acknowledgement of income tax return filed, copy of bank passbook etc, in order to prove the genuineness of the transactions and identity and creditworthiness of persons from whom new unsecured loans and money



against share application money, has been received during the year under consideration. On careful verification of the details furnished in this regard, it was found by the assessing officer that in some cases incomplete or no details have been filed by the assessee. Hence, assessing officer, vide his letter dated 13.12.2016, the assessee was requested to show- cause as to why the amounts received from the such persons for whom incomplete / no details have been filed and in case where filed why the amount of cash credits found in the bank passbook of the lenders immediately prior to issuing cheque in favour of assessee- company should not be treated as unexplained cash credits u/s 68 of the Act and be added to the income of the assessee for the year under consideration.

6. In response to the above, show cause notice, the assessee, vide its letter dated 21/12/2016, filed written submissions along with the details in respect of the parties from whom new unsecured loans and money against share application has been received during the year, which is reproduced hereunder:

"Respected Sir,

Sub: - Submission for the Asst. Year 2014-15 of SUNBOND CERAMIC PRIVATE LIMITED (PAN: AATCS 1098 J)

With reference to the above and as per the details required by your good self, we are submitting all the details as under.

We have submitted confirmations from all the parties with copy of acknowledgement of return of income, copy of bank statement and copy of financial statements of all the parties concerned. We have given Income-tax return and financial statements to proving credit worthiness of the person concerned. We have also attached Bank Statement along with Identity proof and Affidavit to prove genuineness and confirmation from person concerned. Following are the list of depositors and related documents also attached here with.



Following are the list of Depositories and related Document also attached here with.

Sr. No.	Name of the Party	Amount Of Loan	Documents Submitted
1	GitabenKishorbhaiKotadi ya	3,00,000	<ul style="list-style-type: none">• The depositor is Busines.• PAN :- ASRPK7935R• She is Commission Income and filing return of income.• Copy of return of income and Balance Sheet and P&L of last 2 years enclosed.• Resident address Chitrakut Society Street No 1 Behind GIDC , Sanala Road, Morbi• Bank Statement and ITR and Confirmation enclosed Previous Sobmission• Capital As on 31/03/2014 Rs. 2331768/-
2	ShaileshbhaiManjibhaiAg hara	4,50,000	<ul style="list-style-type: none">• The depositor is business.• PAN :- BIIPA3163P• He is JobWork Income and



			<p>filing return of income.</p> <ul style="list-style-type: none"> • Bank Statement and ITR and Confirmation enclosed Previous Submission • Copy of return of income and Balance Sheet and P&L of last 2 years enclosed. • Business Address :- Navrang Tiles, Sanala Road, Morbi • Capital As on 31/03/2014 Rs. 981190/-
3	JalpabenDineshbhaiVidja	5,00,000	<ul style="list-style-type: none"> • The depositor is business. • PAN :- APZPV6305B • filing return of income regulary. • Address :- Chitrakut Society Street No 1 Behind GIDC , Sanala Road, Morbi • Bank Statement and ITR and Confirmation enclosed Previous Submission • Copy of return of income of last 2 years enclosed. • Capital As on 31/03/2014 Rs. 853641/-
4	JigenshbaiJasmatbhaiChikani	4,00,000/-	<ul style="list-style-type: none"> • The depositor is business. • PAN :- AMOPC3848E • Filing return of income on 25/03/2015. • Bank Statement and ITR and Confirmation enclosed Previous Submission • Copy of return of income and Balance Sheet and P&L of last 2 years enclosed. • Address :-Rushabh Nagar, Bhadiad Road, Morbi - 2. • Capital As on 31/03/2014 Rs. 818212/-
5	MinabenNarbherambhaiHulani	2,50,000/-	<ul style="list-style-type: none"> • The depositor is business. • PAN :- AKHPH0428C • filing return of income



			<p>regularly.</p> <ul style="list-style-type: none"> • Address :- Block No. 14, Nitin Park Society • Bank Statement and ITR and Confirmation enclosed Previous Submission • Copy of return of income and Balance Sheet and P&L of last 2 years enclosed • Capital As on 31/03/2014 Rs. 741479/-
Sr. No.	Name of the Party	Amount Of Loan	Documents Submitted
1	ManojbhaiRugnathbhaiKagthara	80,00,000	<ul style="list-style-type: none"> • Depositor is a director in the company and due to fund Requirement he is arranged from his personal books of Accounts • The depositor is doing Business of Partner of Other Firm • PAN :- BAMPK0277L • ADDRESS :- SamaySanituryware, Lakhdirpur Road, Morbi • Copy of Return of income and Bank Statement is enclosed in our previous submission • Regularly filing of Return since last many years. • In Bank Statement 3900000/- Withdrawal In the Same year Before Deposit this Cash of Rs. 3944000/- I Enclose Full Bank Statement • Copy of return of income and Balance Sheet and P&L of last 2 years enclosed • Capital As on 31/03/2014 Rs. 9584964/-
2	KishorbhaiBaljibhaiBhalodiya	25,00,000	<ul style="list-style-type: none"> • The depositor is doing job work and partner in Anuradha Enterprise



			<ul style="list-style-type: none">• PAN :- AMAPB6899G• Address :- At Chanchpar Tal Morbi, Dis : Morbi• Copy of Return of income and Bank Statement is enclosed in our previous submission• Copy of return of income and Balance Sheet and P&L of last 2 years enclosed• Capital as on 31/03/2014 1185044/-
3	BharatbhaiNarbherambhaiSaravda	5,00,000	<ul style="list-style-type: none">• The depositor is doing Business• PAN :- BYSPS8388A• Address :- Chitrakut Society Street No 6, Morbi• Copy of Return of income and Bank Statement is enclosed in our previous submission• Regularly filing of Return since last many years.• I Enclose Bank Statement
4	AlvishkumarVrajlalVadalia	35,00,000	<ul style="list-style-type: none">• The depositor is doing Business• PAN :- AARPV9855B• Address :- Rakholiya Chowk, Jamnavad Road, Dhoraji• Copy of Return of income Confirmation is enclosed in our previous submission• Regularly filing of Return since last many years.• I Enclose Bank Statement
5	Dharmendra BhanjibhaiAghera	40,00,000	<ul style="list-style-type: none">• Depositor is a director in the company and due to fund Requirement he is arranged from his personal books of Accounts• PAN :- AINPA5171D• Address :- Block No 102, AnarnathAppartment, Morbi• Copy of Return of income and Bank Statement is enclosed in our previous submission



			<ul style="list-style-type: none"> • Copy of return of income and Balance Sheet and P&L of last 2 years enclosed • Capital as on 31/03/2014 1691481/-
6	AshvinbhaiBalajibhaiBhalodiya	25,00,000	<ul style="list-style-type: none"> • The depositor is doing Business • PAN :- AQUPB2050K • Address :- At Chanchpar Tal Morbi, Dis : Morbi • Copy of Return of Income and Confirmation is enclosed in our previous submission • Regularly filing of Return since last many years. • I Enclose Bank Statement
7	SumitabenKishorbhaiBhalodiya	20,00,000	<ul style="list-style-type: none"> • The depositor is business. • PAN :- BRVPB9746B • filing return of income regulary. • Address :- At Chanchpar Tal Morbi, Dis : Morbi • Bank Statement and ITR and Confirmation enclosed Previous Sobmission • Copy of return of income and Balance Sheet and P&L of last 1 years enclosed • Capital As on 31/03/2014 Rs. 972198/-
8	SantshbenAshwinbhaiBhalodiya	15,00,000	<ul style="list-style-type: none"> • The depositor is business. • PAN :- AQUPB2074K • filing return of income regulary. • Address :- At Chanchpar Tal Morbi, Dis : Morbi • Bank Statement and ITR and Confirmation enclosed Previous Sobmission • Copy of return of income and Balance Sheet and P&L of last 2 years enclosed • Capital As on 31/03/2014 Rs.



			1012385/-
9	ChetanabenNiteshbhaiBhalodiya	10,00,000	<ul style="list-style-type: none">The depositor is business.PAN :- BPEPB7174Jfiling return of income regulary.Address :- Vidhutpark, Ravapar Road, MorbiBank Statement and ITR and Confirmation enclosed Previous SobmissionCopy of return of income and Balance Sheet and P&L of last years enclosedCapital As on 31/03/2014 Rs. 1114481/-
10	DayabhaiRaghavjibhaiBhimani	5,00,000	<ul style="list-style-type: none">The depositor is business.PAN :- AMXPB8915Afiling return of income regulary.Address :- 46B, AnjaliPark Society, Street No. 3, Ravapar Road, MorbiBank Statement and ITR and Confirmation enclosed Previous SobmissionCopy of return of income and Balance Sheet and P&L of last 2 years enclosedCapital As on 31/03/2014 Rs 809588/-
11	KamlabenJagdishbhaiSaravada	20,00,000	<ul style="list-style-type: none">The depositor is business.PAN :- DYQPS3508Lfiling return of income regulary.Address :- Green Land Park, SanalarRaod, MorbiBank Statement and ITR and Confirmation enclosed Previous SobmissionCopy of return of income and Balance Sheet and P&L of last





12	MaheshbaiLaljibhaiBhal odiyva	10,00,000	<p>2 years enclosed</p> <ul style="list-style-type: none">• Capital As on 31/03/2014 Rs 10,04,886/-
13	MaheshbhaiGaneshbhai Godhaviya	5,00,000	<ul style="list-style-type: none">• The depositor is business.• PAN :- BRZPB4432Q• filing return of income regulary.• Address :- At : Chachapar , Tal : Morbi, Dis : Morbi• Bank Statement and ITR and Confirmation enclosed Previous Sobmission• Copy of return of income and Balance Sheet and P&L of last 2 years enclosed• Capital As on 31/03/2014 Rs. 799517/-

7. However, the assessing officer rejected the above contention of the assessee, and held that the assessee had not discharged its liability as cast upon it, by



virtue of Section 68, to the extent of the sum of Rs.1,24,30,000/-, claimed to have been received from the so-called lenders of unsecured loans and Share applicants. Therefore, the assessing officer disallowed the sum of Rs. 1,24,30,000/-, under section 68 of the Act.

8. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before Ld.CIT(A), who has confirmed the action of the Assessing Officer. The Ld.CIT(A) noticed that assessing officer has made some crucial findings on the basis of details submitted by the assessee, and based on these findings, the assessing officer has concluded that the creditworthiness and genuineness of transactions remain to be satisfied in respect of some of the loan lenders and shareholders. On analysis of such documents, the assessing officer has made the crucial findings that in case of some of the loan lenders, there has been cash deposits in their bank accounts just before release of the same in favour of the assessee for the purpose of loan. All these loan lenders have advanced money to the assessee by way of loan/share application, which exceeds the income returned by them. All these persons have income less than 3 lakhs and yet they have advanced money to the assessee. Based on these facts, the Ld. CIT(A), confirmed the addition made by the assessing officer.

9. Aggrieved by the order of the learned CIT(A), the assessee is in further appeal before us.

10. Learned Counsel for the assessee, argued that during assessment proceedings, the Assessing Officer issued notice u/s 142(1) of the Act, calling for details and information. In response to this notice, assessee submitted relevant documents and evidence before Assessing Officer, such as PAN of the concerned parties, bank statements, conformation from the parties, balance-



sheet of the party, profit and loss account of the party, copy of ITRs, copy of previous capital account of the assessee and copy of cash flow statements etc., to substantiate the transactions. The Ld. Counsel submitted that all these details are available in paper book page-22. Therefore, assessee has discharged its primary onus by submitting those documents and evidences. However, the Assessing Officer could not conducted, further enquiry with the help of these documents and evidences. That is, the assessing officer has not conducted any further inquiry to disprove those documents and evidence, so submitted by the assessee. The Ld. Counsel for the assessee also stated that in respect of various parties, assessee do not have any obligation to prove **the source of the source, as these are loan transactions**. In case of loan transactions, the assessee need not to prove the source of the source for the year under consideration. Therefore, learned Counsel contended that addition sustained by the learned CIT(A) may be deleted.

11. On the other hand, Ld. Senior DR for the Revenue submitted, that in loan transaction also, in appropriate cases, the assessee needs to explain the source of the source. The Learned DR further stated that Ld. CIT(A) did not pass elaborate order and order passed by Ld. CIT(A) is not a speaking order. Hence, Ld. Sr-DR for the Revenue requested the Bench to remit this matter back to the file of Ld. CIT(A), with a direction to pass a speaking order in accordance with law.

12. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Ld CIT(A) and other materials brought on record. We do not agree with learned DR for the revenue, to the effect that assessee needs to explain source of the source, in respect of loan transaction for the assessment year 2014 -15. We



note that according to section 68 of the Income Tax Act, where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not satisfactory in the opinion of the assessing officer, the sum so credited may be charged to income tax as the income of the assessee of that assessment year. The assessing officer may consider such sum as cash credit due to lack of sufficient explanation. It is well known that provisions of section 68 have been introduced into the taxing enactments step by step in order to plug loopholes. Even long prior to the introduction of section 68 of the Act, in the statute book, courts had held that where any amounts were found credited in the books of the assessee in the previous year and the assessee offered no explanation about the nature and source thereof or the explanation offered was, in the opinion of the assessing officer, is not satisfactory, the sums so credited could be charged to income-tax, as income of the assessee of the relevant assessment year. We note that with effect from assessment year 2013-14, section 68 of the Income Tax Act has been amended to provide that if a closely held company fails to explain the source of share capital, share premium or share application money received by it to the satisfaction of the assessing officer, the same shall be deemed to be the income of the company under section 68 of the Act. We note that the amended provisions of section 68, is not applicable to the assessee company under consideration, for loan transactions for assessment year 2014-15, as the amended provisions of section 68 is applicable only to share capital/share premium and not to the loan transactions. Therefore, we reject the plea taken by the learned DR for the revenue to the effect that assessee needs to prove source of the source for loan transaction. Besides, we have gone through the order of the Id.CIT(A) and noted that it is a detailed and speaking order. Therefore, second innings should not be given to Ld. CIT(A) to examine same facts and circumstances of the assessee's case.



13. We note that addition of Rs. 1,24,30,000/- sustained by the Ld. CIT(A) belongs to loan creditors. We note that assessee has submitted plethora of documents and evidences during assessment proceedings. The assessee has submitted all relevant details like name and address, PAN numbers, Income Tax Returns, Bank statements, balance sheets, Profit & Loss account. The assessing officer cannot ask the assessee to verify the source of source, especially for loan transactions, for the assessment year 2014-15, without carrying out initial verification of the primary evidences submitted, by the assessee. The assessing officer has not carried out any investigation post submission of details by the assessee. We note that the basic precondition for the Section 68 is that the assessee should file a valid confirmation and prove creditworthiness. Once these documents are produced, the assessee would have satisfactorily discharged the onus cast upon him. Thereafter, it is for the Assessing Officer to scrutinize the same and in case he nurtures any doubt about the veracity of these documents, to probe the matter further. However, to discredit the documents produced by the assessee, on the aforesaid aspects, there has to be some cogent reasons and materials for the Assessing Officer and Assessing Officer cannot go into the realm of suspicion. Thus, element of creditworthiness and satisfaction of assessing officer thereafter is subjective and requires more efforts/inquiry on the part of the assessing officer to give a finding in the order that lender is not creditworthy. Once it is established that the amount has been invested, by a particular person, be he a partner or an individual then the responsibility of the assessee is over. It is open to the A.O to undertake further investigation with regard to that individual who has deposited the amount. In *India Rice Mills v. CIT* 218 ITR 508, 511 (All.) it was held that where the capital contributions are made by the partners prior to the commencement of the business by the assessee-firm, it is for the partners to explain the source of such capital contributions and if they fail to discharge such onus then such capital



contributions, although entered in the books of accounts of the assessee-firm, cannot be regarded as income of the assessee-firm. It is noted that all the requisitioned documents were furnished before the AO which substantiated the transaction between the assessee company and the loan creditor. It is therefore not a case where the documents sought from the loan creditor to examine the transaction were not available before the AO. As regards the issue of non-appearance of the loan creditors, we note that in such a case the Hon'ble Apex Court in the case of Orissa Corpn. (P) Ltd. 159 ITR 78 and the Hon'ble Gujarat High Court, in the case of Dy. CIT v. Rohini Builders [2002] 256 ITR 360 [2003] 127 Taxman 523, have held that onus of the assessee (in whose books of account credit appears) stands fully discharged if the identity of the creditor is established and actual receipt of money from such creditor is proved. In case, the Assessing Officer is dissatisfied about the source of cash deposited in the bank accounts of the creditors, the proper course would be to assess such credit in the hands of the creditor (after making due enquiries from such creditor). On these facts and circumstances, we delete the addition of Rs.1,24,30,000/-.

14. In the result, appeal filed by the assessee is partly allowed, to the extent indicated above.

Order pronounced in the open court on 21 /05/2025.

Sd/-

(DINESH MOHAN SINHA)

न्यायिक सदस्य/JUDICIAL MEMBER

राजकोट/Rajkot

दिनांक/ Date: 21/05/2025

DKP Outsourcing Sr.P.S

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

Sd/-

(DR.ARJUNLALSAINI)

लेखा सदस्य/ACCOUNTANT MEMBER



- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेशसे,

सहायक पंजीकार
आयकर अपीलीय अधिकरण ,राजकोट