

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.281/SRT/2023

Assessment Year: (2014-15)

(Hybrid hearing)

Mahesh Dyeing and Printing Mills Pvt. Ltd., 104, 105, 107 Shivanand Nagar Ind. Estate, Village – Tati Thaiya, Surat – 394221, Gujarat	Vs.	DCIT, Circle – 1(1)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AABCM9282E		
(Appellant)		(Respondent)

Appellant by	Shri Rasesh Shah, CA
Respondent by	Shri Ajay Uke, Sr. DR
Date of Hearing	02/06/2025
Date of Pronouncement	11/06/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 14.12.2022, by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'CIT(A)'] for the Assessment Year (AY) 2014-15.

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

*"1. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in making addition of Rs.57,00,000/-u/s. 68 on account of alleged bogus share capital.*

*2. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in making addition of Rs.35,75,000/- u/s. 68 on account of alleged bogus loan.*

*3. It is therefore prayed that addition made by assessing officer and confirmed by CIT (A) may please be deleted.*

*4. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”*

3. Brief facts of the case are that the assessee filed his e-return of income on 27.09.2014, declaring total income of Rs.19,79,838/-. The case was selected for complete scrutiny under CASS. Various statutory notices were issued to the assessee. The assessee company is engaged in the business of processing of fabrics on job-work basis. The assessee has received share application money of Rs.57,00,000/- for which 1,90,000 shares were allotted at face value of Rs.10/- with premium of Rs.20/- per share. The name-wise list of shareholders is mentioned at para 4.1 (page 2) of the assessment order. The Assessing Officer (in short, 'AO') issued notice dated 05.12.2016 to show cause as to why share capital and share premium be not added to the total income of the assessee by invoking provisions of section 68 of the Act because the assessee has not discharged the onus of proof regarding identity and creditworthiness of investors and genuineness of transactions. The assessee submitted detailed reply on 15.12.2016 along with copies of earlier submissions dated 10.10.2016 and 13.12.2016 to prove the genuineness of the share capital and premium received and credited in the books of account. It submitted a chart showing name and address of the three shareholders, confirmation statement of investor parties, copies of bank statement of investors, returns of income, balance sheets and audited annual accounts of investors, bank book of

assessee-company and assessment order. The contention of the assessee was rejected by AO and he made total disallowance of Rs.95,03,581/-, which includes unsecured loans of Rs.35,75,000/- from Shri Dhiraj T. Rathi, one of the shareholders discussed above. The AO determined the total income of Rs.1,14,85,420/- as against the returned income of Rs.19,79,838/-.

4. Aggrieved by the order of AO, the assessee filed this appeal before the CIT(A). The CIT(A) reproduced the submission of appellant, which is at pages 38 to 85 of the appellate order. The findings of the CIT(A) are at pages 86 to 92 of the appellate order. Regarding ground no.1, the CIT(A) observed that the assessee was beneficiary of a sophisticated money-laundering racket, wherein the money was given in cash to dummy entities for subscribing share capital of the assessee-company. The share applicant having PAN and that they have filed the income-tax returns, by itself, does not prove that transaction is bonafide. The onus was on the assessee to demonstrate the transactions were genuine, but the assessee has miserably failed to do so. The CIT(A) relied upon the decisions in cases of Pawankumar M. Sanghavi vs. ITO, 81 taxmann.com 308 (Ahd – Trib.), CIT vs. Gagandeep Infrastructure Pvt. Ltd., 80 taxmann.com 172 (Bom.), PCIT vs. Youth Construction Pvt. Ltd., 357 ITR 197 (Del). For similar reasons, he also upheld unsecured loans of Rs.35,75,000/- received from Shri Dhiraj T. Rathi, one of the shareholders of the assessee-company.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee at the

outset submitted that remand report submitted by the AO was not forwarded to the appellant for its rejoinder. Hence, the appeal of the assessee was dismissed by CIT(A) without properly hearing the assessee, which is in clear violation of principles of natural justice. He further submitted that the ITAT has restored the appeal for AY.2011-12 back to CIT(A) with direction to pass the order afresh after hearing the assessee.

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) of the revenue supported the order of lower authorities.

7. We have heard both the parties and perused the material available on record. We find that the CIT(A) had called for the remand report from the AO after receiving submission of the assessee. The remand report of AO is at pages 38 to 85 of the appellate order. However, copy of the same was not forwarded to the appellant for its rejoinder. The instant appeal has been filed by the assessee. Hence, the assessee was entitled to rebut the remand report of the AO. Such opportunity was not granted by the CIT(A) before passing the order u/s 250 of the Act. We find that the Tribunal has also set aside the order passed by the CIT(A) in appellant's own case to the file of CIT(A) in ITA No.527/SRT/2023 for AY.2011-12. Therefore, we deemed it proper to restore the matter back to the file of CIT(A) with direction to pass the order afresh after providing adequate and reasonable opportunity of being heard to the assessee. The CIT(A) is directed to call for the rejoinder from the appellant on the remand report received by him from the AO. In view of the above, the

order of CIT(A) is set aside and the grounds of appeal is allowed for statistical purposes.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 11/06/2025.

**Sd/-**  
**(SUCHITRA R. KAMBLE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat  
दिनांक/ Date: 11/06/2025

SAMANTA

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**// TRUE COPY //**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat