

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
" A " BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
अन्नपूर्ण गुप्ता, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Annapurna Gupta, Accountant Member

आयकर अपील सं./ITA No. 1003/Ahd/2023
निर्धारण वर्ष /Assessment Year : 2017-18

Jaydev Developers 16, 4 th Floor Agarwal Mall Opp. Bhagwat Vidyapith S.G. Highway Ahmedabad - 380 054	बनाम/ v/s.	The Income Tax Officer Ward-4(2)(1) Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AAIFJ 1174 C		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Suresh Gandhi, AR	
Revenue by :	Shri B.P. Srivastava, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 29/07/2025
घोषणा की तारीख /Date of Pronouncement: 25/09/2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 10/10/2023 for Assessment Year (AY) 2017-18.

2. The assessee, in this appeal, has taken following grounds of appeal:

“1. The Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 1,50,00,000/- u/s. 68 of the Act in respect of unsecured loan received from Jain Farms Pvt. Ltd. without proper consideration and appreciation of the facts of the case. Under the facts and circumstances of the case, the addition of Rs. 1,50,00,000/- u/s. 68 of the Act is required to be deleted.

2. The Ld. CIT(A) has erred in law and on facts in not appreciating the fact that the net amount of unsecured loan taken from the said company Jain Farms Pvt. Ltd. during the FY 2016-17 is of Rs. 1,19,85,000/- since the loan amount of Rs. 30,15,000/- has been repaid during the same financial year 2016-17 itself. Under the facts and circumstances of the case, the addition of Rs. 1,50,00,000/- confirmed by the Ld. CIT(A) is contrary to the facts available on record.”

3. The brief facts of the case are that the assessee is a partnership-firm engaged in the business of construction and property development. During the scrutiny assessment proceedings u/s 143(3) of the Income Tax Act, 1961 (in short “the Act”), the Assessing Officer (AO) noted that the assessee-firm had taken unsecured loans from various persons during the Financial Year (FY) 2016-17 relevant to assessment year under consideration AY 2017-18. The AO asked the assessee to furnish the complete details of the persons and to establish the identity and creditworthiness of the creditors and genuineness of the transactions. From the details furnished by the assessee, the AO noted that one of the creditors of the assessee was ‘Jain Farms Private Limited’ . The assessee, during the year under consideration, had taken a loan of Rs.1.50 crores from the said company ‘Jain Farms Private Limited’. However, the closing balance of the loan as on 31/03/2017 was shown as Rs.1,19,85,000/- and no interest was paid on the said amount. The Ld. AO further noted that no Income Tax Return was filed by the said lender-company and further from the bank statement of the said company, the AO noted that there were transfers/credits/deposits on the same date which were then immediately advanced to the assessee-firm, which transactions *prima facie* appeared suspicious. Having noted the above facts, the AO

carried out field enquiry about the identity of the said company. As per the field enquiry report of the Inspector, he went personally to the available address of the said company and found that there was no such company or office of such company existing on the given address. He also made enquiry from the neighbourhood/surroundings from which it was gathered that no such person/entity was available on the said address. Considering the circumstances, that the said Jain Farms Private Limited had not filed any income-tax return and further it had no office at the given address and its name was also struck off from the Registrar of Companies (RoC). The AO was of the view that the said company was non-existent and its identity was not established.

3.1. The AO, thereafter, again show-caused the assessee requiring it as to why the said loan be not treated as non-genuine and added to the income of the assessee. In response thereto, the assessee submitted that the assessee during the year had taken fresh loan of Rs.1.50 crores from the said 'Jain Farms Private Limited' and had repaid an amount of Rs.30,15,000/- during the year itself, and there was closing balance of Rs.1,19,85,000/- at the end of the year. That the assessee had already filed the confirmation of account for FY 2016-17, copy of their PAN card, relevant bank statement of the said party. It was further submitted that the unsecured loan from the said party was taken in the month of July and September-2016 and that the return of income for FY 2016-17 was due on 30/09/2017. It was, therefore, pleaded that at the time of taking of the loan, the return of income for AY 2017-16 was not due and further that the assessee was not aware whether the said party would file its return of income or not and for whatsoever reasons. That, in this respect, no adverse inference can be taken against the assessee. It was further submitted that the aforesaid unsecured loan was received by the assessee

through 'a/c. payee cheques' from the said company. It was further submitted that the loan was taken from the said company in the month of July and September-2016 and the said company was struck off by Registrar of Companies on 9th May-2018. That when the loan was taken, the status of the said company was active and that it was not possible to anticipate future actions or status of the said company. It was, therefore, submitted that the transaction was genuine and no additions were warranted.

3.2. The AO, after considering the above submissions of the assessee, observed that the said 'Jain Farms Private Limited', on the one hand, had advanced a loan of Rs.1.50 crores to the assessee and, on the other hand, did not file any return of income. That the said company had filed its last return for AY 2015-16. Further, that the physical inspection carried out at the given address of the said company also showed that the said company did not exist at the given address. The AO further noted that as per the details downloaded from the RoC's website, the company had already been struck off and the company had last prepared its balance-sheet on 31/03/2015. Further, that the last Annual General Meeting (AGM) of the said company was held on 30/09/2015. The AO further observed that merely because the amount of loan was routed through banking channel, that itself did not prove the identity and creditworthiness of the creditors and genuineness of the transactions. The AO further noted that even from the bank statement, it was seen that there were transfers/credits/deposits on the same date in the account of 'Jain Farms Private Limited', which were then immediately advanced to the assessee-firm. The AO has given the details of such transfers/credits and withdrawal/transfer to the assessee at page No.11 of the assessment order. The AO considering the overall facts and circumstances held the aforesaid unsecured loan from 'Jain Farms Private

Limited' as unexplained and added the same to the income of the assessee treating the same as income of the assessee from unexplained sources and made the impugned addition of Rs.1.50 crores.

4. Being aggrieved by the aforesaid order of the AO, the assessee preferred appeal before the Ld.CIT(A). In the appellate proceedings, the assessee reiterated its submissions as were made before the AO and further pleaded that out of the total Rs.1.50 crores, the assessee had repaid the amount of Rs.30,15,000/- during the year itself. That since the name of the said company, 'Jain Farms Private Limited', has been struck off from the RoC and, accordingly, the assessee-company was not in a position to locate the whereabouts of the said company. It was submitted that merely because the amount of unsecured loan of 1,19,85,000/- is outstanding as on date, no inference should be drawn against the assessee-firm.

4.1. The Ld.CIT(A), however, did not get convinced with the submissions of the assessee and observed that the name of the said lender-company was struck off from the RoC website and further that the last prepared balance-sheet of the party was on 31/03/2015 and its last AGM was held on 30/09/2015. That from the aforesaid facts, it was clear that it was not possible to examine the creditworthiness of the said company for the relevant financial year as the impugned loan was claimed to have been given in FY 2016-17, when the said company was not undertaking normal business. That the loan was taken by the assessee-company much after the date when the normal business activities of the company had stopped as the last balance-sheet was prepared on 31/03/2015 only. He, therefore, held that the genuineness of the impugned transactions was not established. He, further observed that even it was also very unlikely that a company, which was going to be wound up,

would be in a position to grant such loans to the assessee. The Ld.CIT(A) further observed that the assessee even had not repaid the said amount of loan and further that the said company has ceased to exist. He held that the assessee failed to establish the identity and creditworthiness of the creditor 'Jain Farms Private Limited' and genuineness of the transactions. The Ld.CIT(A), therefore, confirmed the impugned additions made by the AO.

5. We have heard the rival contentions of the Ld. Representatives of the parties and gone through the record. From the facts as discussed above, it is undisputed that the assessee had allegedly taken the loan of Rs.1.50 crores from the company 'Jain Farms Private Limited' in FY 2016-17, whereas, the company had stopped its business activity much earlier as the last balance-sheet of the said company was prepared on 31/03/2015. Further, there were immediate credit entries in the bank accounts of the said company, which amount was further transferred to the assessee which casts serious doubt about the genuineness of the transactions. Now the assessee has taken the plea that since the name of the said company was struck off from the Registrar of Companies, therefore, the assessee was not having address of the said company and that the said company was not traceable. However, the peculiar facts of the case are that the loan was advanced by the said company to the assessee immediately before its name was struck off and further the said company was not filing its return of income as the last return of income was filed for AY 2015-16. The aforesaid facts on the file clearly establish that a company which was going to be wound up, was used by the assessee for routing its unaccounted income in the garb of unsecured loans. A very peculiar fact which we have noted from the internet/website www.zauabacorp.com, which website carries the details of incorporation and

name of Directors and financials of the various companies registered with the RoC. As per the details available on the said website, there were two Directors of the company as on 01/04/2016 namely, Mr.Devan Kumar Rameshbhai Patel and Vishnubhai Natwarlal Patel. Incidentally, the assessee partnership-firm has two partners, namely, Deven R. Patel and Tikendra D.Patel which shows that one of the Directors of the said 'Jain Farms Private Limited', namely, Mr.Deven R.Patel is also partner of the assessee-firm. This fact also shows that the said company, which was to be wound up, has been used for routing unaccounted income of the assessee. Therefore, we do not find any merit in the appeal of the assessee and the same is, accordingly, dismissed.

6. In the result, the appeal of the assessee stands dismissed.

Order pronounced in the Open Court on 25/09/2025.

**Sd/-
(Annapurna Gupta)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

अहमदाबाद/Ahmedabad, दिनांक/Dated 25 /09/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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) - (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , अहमदाबाद/DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad