



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

&

**SHRI DIESH MOHAN SINHA, JUDICIAL MEMBER**

आयकरअपीलसं./ITA No. 332/RJT/2024  
निर्धारणवर्ष / Assessment Year: (2009-10)  
(Hybrid Hearing)

M/s. Dawn Chemicals 1 – Gokul Chambers, Dhebar Road One Way, Rajkot – 360001	<b>Vs.</b>	The ACIT, Circle – 2(1), Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAFFD9532R		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Mehul Ranpura, Ld. AR  
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

**Date of Hearing** : 24/06/2025  
**Date of Pronouncement** : 29/08/2025

**आदेश / ORDER**

**PER DINESH MOHAN SINHA JM;**

Captioned appeal filed by assessee pertaining to Assessment Year 2009-10, is directed against order passed by Commissioner of Income Tax (Appeal), vide order dated 21/03/2024, which in turn arises out of an order passed by the Assessing Officer dated 16/12/2016 u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961.

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

*“The grounds of appeal mentioned hereunder are without prejudice to one another.*

1. *The Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the "CIT(A)") referred on facts as also in*



*law in rejecting the ground of appeal related to validity of notice issued u/s 148 of the Income tax Act, 1961. That on facts as also in law, initiation of action u/s. 147 of the Act is invalid and assessment made on such invalid initiation deserves to be quashed and may kindly be quashed.*

- 2. The Id. CIT(A) erred on facts as also in law in confirming addition of Rs.11,00,000/-being alleged accommodative entries in the form of unsecured loan Rs.11,00,000/- from M/s. Bhoomidev Credit Corporation Ltd. The addition made and confirmed is bad in law as also on facts therefore the same may kindly be deleted.*
- 3. The Id. CIT(A)erred on facts as also in law in confirming addition of Rs.16,500/- being alleged commission expenses said to have been paid on the above accommodative entries. The addition made and confirmed is bad in law as also on facts therefore the same may kindly be deleted*
- 4. Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.”*

3. Brief facts of the Case that the appellant, a partnership firm, is engaged in the business of trading in Dyes, Chemicals & Art material etc., under the name and style of “M/s Dawn Chemicals. The Books of Account are regularly maintained by the assessee and duly audited by Chartered Accountant u/s. 44AB of the income-tax Act 1961. Assessee has filed return of income of Rs.20,61,596 on 29.09.2009 for AY 2009-10. That the assessment for AY 2009-10 was originally finalized on total income at 20,91,625/-, vide order dated 29.11.2011, u/s 143(3) of the Act wherein minor addition of Rs.30,025/- was made on the ground of non-deduction of tax at source.

On the outcome of search proceeding carried out by the Income Tax Department at the business premises of one Shri Prakash Bagrecha, a director of Mis Bhumidev Credit Corporation Ltd (hereinafter referred as to the "BCCL"] and statements of Shri Prakash Bagrecha director was recorded by the Assistant Commissioner of Income-tax, Investigation Wing Circle-1(2), , Rajkot (hereinafter referred as to the "AO"] alleged that director of above companies were indulge in business of providing accommodation entries to various business entities in lieu of charging commission of 1.5% to 2% of the transaction in the form of unsecured loan and it was reported that the



transactions entered into by the beneficiaries with the searched parties were bogus and transaction dealt with represent the undisclosed income of the beneficiaries for assessment year 2009-10.

4. An information came into the notice of AO that the appellant was one of the beneficiary of transactions dealt with 'BCCL'. The AO thus issued notice u/s 148 of the Act on 28.03.2016 requiring the appellant to file its return of income. That the assessee in reply to notice filed letter dated 16.09.2016 requesting therein to treat original return of income filed by the appellant on 29.09.2009 may kindly be treated in pursuance to the notice u/s. 148 of the Act. The appellant furnished various details in respect of unsecured loan received from BCCL, audited account of BCCL, duly sworn affidavit of one of the director namely Shri Shivraj Bagrecha etc. In the Assessment proceeding AO observed that transactions completed with said BCCL were bogus and not genuine in nature. The AO in total disregards wh the unsecured loan of 11,00,000/- received by the appellant is nothing but the colorable devise to bring the unaccounted money into books of account by taking the shade of unsecured loan, and added the unsecured loan in the total income of appellant u/s.68 of the Act. AO alleged that appellant had paid commission expenses for securing unsecured loan at @1.5% on total amount of Rs. 11,00,000/- and added to Rs. 16,500/- in the appellant's total income in respect of commission Exp was added in the total income u/s. 69C of the Act. Thus, the AO vide order u/s 143(3) of the Act dated 16.12.2016 assessed the Total income at 32,08,120/-.

5. That the assessee filed an appeal against the order of the AO before the Ld. CIT(A) dated 21/03/2024. That the Ld. CIT(A) dismissed the appeal with following remarks;

*"Further, appellant challenged reopening u/s. 148. However, it is seen that AO complied to Hon'ble Supreme Court decision on in the case of: "CASE NO: Appeal (civil) 7731 of 2002: GKN DRIVESHAFTS (INDIA) LTD v. Income tax Officer and Ors." Therefore, appellant' this ground rejected.*



*In the result, the appeal filed by appellant is dismissed.”*

6. That the assessee filed an appeal against the impugned order dated 21.03.2024 of the Ld. CIT(A) before us.

7. During the course of hearing the Ld. AR submitted that the reopening assessment by the AO is in mechanical manner, no enquiry has been conducted by AO, that the addition in Total income is bad in law, in view of that all the details submitted before the assessing officer during the course of assessment proceeding, Ld. AR requested that the addition in income. may kindly be deleted.

8. On the contrary the Ld. Sr. DR for the revenue has relied on the order of the Ld. PCIT.

9. We have heard both the representative of both the party and perused all the material available on record, and also perused the paper-book filed by the assessee before the Tribunal. We noted that return of income declaring income of Rs.20,61,596/- was filed on 29.09.2009 and the assessment was originally finalized on dated 29.11.2011 on total income of ₹ 20,91,625/- vide order u/s.143(3) of the Act wherein minor addition was made on the ground of non-deduction of tax at source. On the basis of information received from Investigation wing by AO that in search proceeding carried out at the business premises of one Shri Prakash Bagrecha, a director of M/s. Bhumidev Credit Corporation Ltd. (hereinafter referred as to the "BCCL"] that director of above companies were indulge in business of providing accommodation entries in the form of unsecured loan and it represented the undisclosed income of the beneficiaries for assessment year 2009-10.. On the contrary Shri Prakash S.



Bagrecha the Director of Bhoomidev vide his affidavit executed on 08.12.2016 has affirmed that the transaction is genuine business transaction and not in nature of accommodation entry. Copy of affidavit, PAN of Shri Bagrecha, and statement of account is placed on record (Page to 14. Of PB). Entire deposits / loan was repaid by 08.03.2011. Tax was also deducted u/s 194A of the Act and was deposited.. We further note that the assessment order has confirmed that the assessee attended from time to time and furnished the details as required by AO in respect of cash credit of ₹ 11,00,000/-, the AO vide para 7 of the notice has called for the details of cash credits stating: *Provide name, address, PAN, Confirmation, contra a/c from all the persons who have contributed towards unsecured loans during the financial year.*

10. We note that the appellant has furnished the details of Loan and confirmation of loan from Bhoomidev Credit Corporation Ltd.. The interest payable was worked out at 12,477/- and TDS of ₹2,570/-was deducted. (Page 26 to 27 in Paper-Book) The AO found that in the original assessment transaction as genuine and accepted the income declared in return with minor disallowances out of the interest payment. That the fact as stated above. Shri Prakash S. Bagrecha the Director of Bhoomidey Credit Corporation Ltd. vide his affidavit executed on 08.12.2016 has affirmed that the transaction is genuine business transaction and not in nature of accommodation entry. PAN of Shri Bagrecha, and statement of account is on record. The appellant further submits that the books of accounts are audited u/s 44AB of the Act and the same is already on record. The AO and the auditor have not pointed out any defect in the Books of accounts.

11. Thus, on both count i.e. the factual issue as well as on the legal issue there is no justification to treat the loan of 11,00,000/- as unexplained income and



addition of 16,500/- being payment of commission @ 1.5% not recorded in the books of accounts. We note that once the assessee has established that money has been taken by way of account payee check and duly recorded in the books of accounts and books are audited. Moreover, the assessee has repaid the amount in subsequent year, then genuineness of the transaction should not be doubted. The assessee submitted the name address pan no. and confirmation of account of the party given the unsecured loan than the burden of the assessee is dully discharged under section 68 of the Act. In view of the above, we delete the addition made in the total income for A.Y. 2009-10. Hence, both the addition deserves to be deleted. Therefore, we order to delete the addition in total income of the Assessee, That we have decided the appeal on merit the ground No.1, related to reopening of the case does not require any adjudication.

12. In result the appeal of the assessee is allowed for statistical purpose.

**Order pronounced in the open court on 29/08/2025.**

**Sd/-**  
**(Dr. A.L. SAINI)**  
**ACCOUNT MEMBER**

Rajkot

दिनांक/ Date: 29/08/2025

**Copy of the Order forwarded to**

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

(True Copy)

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICAL MEMBER**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot