

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.857/PUN/2024
निर्धारण वर्ष / Assessment Year : 2009-10

ITO, Ward-6(1), Pune.	Vs.	Shravani Land Private Limited, Utkarsha, Plot No.14, Yogi Arbindo Society, Sahakar Nagar-2, Pune- 411009. PAN : AALCS1473M
Appellant		Respondent

Revenue by : Shri Manish Kumar Sinha
Assessee by : None

Date of hearing : 15.09.2025
Date of pronouncement : 20.11.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the Revenue is directed against the order dated 26.02.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2009-10.

2. The Revenue has raised the following grounds of appeal :-

"1. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in deleting the addition of Rs. 2,43,35,511/-*

made by the AO u/s 68 of the Act by holding that the assessee has proved the identity and creditworthiness of the creditors and genuineness of the transaction, thereby ignoring the inconsistency in the stand taken by the assessee before the Investigation authorities and before the Assessing Officer with regard to the source of the impugned credit.

2. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) failed to take note of the fact that the assessee before the Investigation Wing had stated that the unsecured loan was taken from M/s Vinamra Universal Traders Pvt. Ltd. whereas before the Assessing Officer, the unsecured loan was stated to have been taken from Mumbai SEZ. The Ld. CIT(A) ought to have dealt with this inconsistency rather than assuming that the assessee has proved the identity and creditworthiness of the creditors and genuineness of the transaction.*
3. *On the facts and in the circumstances of the case and in law, the Id. CIT(A) failed to take note of the fact that the assessee had failed to respond to the show cause notice issued by the AO on 09/12/2016 seeking assessee's response as to the inconsistency in the stand taken by it with regard to the source of the impugned credit with supporting evidence. The Id. CIT(A) failed to appreciate that it was only upon assessee's failure to furnish the relevant documentary evidences sought, the AO proceeded to make the addition and therefore, the Id. CIT(A) has erred in holding that the assessee had discharged its onus of proving the identity and creditworthiness of the creditor and genuineness of the transactions.*
4. *The appellant craves leave to add, amend, or alter any ground(s) of appeal at the time of hearing before the Hon'ble Tribunal."*

3. Facts of the case, in brief, are that the assessee is a company engaged in the business of trading developing and selling of lands and has furnished its return of income on 23.09.2009 declaring total income of Rs.60,804/-. On the basis of information received from The DDIT, Investigation Unit- 4(1), Mumbai vide letter dated

21.03.2016 that the assessee company purchased land out of the unsecured loan and during the enquiry conducted at Investigation Wing, the identity of the creditors the creditworthiness and genuineness of transaction could not be proved by the assessee company and therefore on the basis of this information notice u/s 148 of the Act was issued to the assessee company. In response to notice u/s 148, the assessee company furnished its return of income. Subsequently, notice u/s 142(1) & 143(2) were also issued to the assessee company. In the balance sheet, the assessee company has shown current liabilities amounting to Rs.2,43,35,511/- under the head 'unsecured loan'. In response to notices, the assessee company furnished bank statement of IDBI Bank and confirmation of unsecured loan from Mumbai SEZ and income tax return was also furnished. However, on the basis of information received from DDIT, the Assessing Officer found that during the investigation proceedings before DDIT, Mumbai, the unsecured loan was claimed to be received from Mrs. Vinamra Universal Traders Private Limited, however at the time of assessment the same was claimed to be received from Mumbai SEZ. In this regard, the Assessing Officer issued a final show cause notice to the assessee to explain

the correct position, however the assessee failed to submit any explanation in this regard and therefore the Assessing Officer added the amount of Rs.2,43,35,511/- under the head 'income from other sources' being unexplained cash credit shown in the balance sheet in the name of unsecured loan. Accordingly, vide order dated 16.12.2016 the Assessing Officer completed the assessment proceedings u/s 143(3) r.w.s. 147 of the Act by determining total income at Rs.2,43,96,320/- as against income of Rs.60,804/- returned by the assessee.

4. Being aggrieved with the above assessment order passed by the Assessing Officer, the assessee preferred an appeal before Ld. CIT(A)/NFAC. After considering the reply of the assessee, Ld. CIT(A)/NFAC deleted the addition of Rs.2,43,35,511/- and allowed the appeal filed by the assessee.

5. It is the above order against which the Revenue is in appeal before the Tribunal.

6. When the appeal was called for hearing neither anybody appeared nor any application for adjournment was filed from the side of the assessee despite due service of notice of hearing. In this regard, we find that the appeal is very old and being carried on since

July 2024. We further find that on some occasion the Director of the company sought adjournment on the ground of non-receipt of Form 36 and grounds of appeal filed by the Department. We also find that on one occasion Director of the company appeared and submitted that the company is exploring VSVS, however thereafter nothing was produced in support of opting of VSVS. On the last hearing i.e. on 12.08.2025 the matter was again adjourned to 15.09.2025 at the request of the assessee. However, we find that again the assessee remained absent on 15.09.2025 and therefore we deem it appropriate to decide the appeal in the absence of assessee & after hearing Ld. DR.

7. Ld. DR appearing from the side of the Revenue submitted before us that the order passed by Ld. CIT(A)/NFAC is not justified. Ld. DR submitted before us that Ld. CIT(A)/NFAC failed to take note of the fact that the assessee did not respond to the final show cause notice issued by the Assessing Officer, specifically asking the assessee to explain the reason of different stand taken by the assessee before the Investigation Wing, Mumbai and before the Assessing Officer with regard to unsecured loan. Ld. DR further submitted before us that Ld. CIT(A)/NFAC erred in deleting the

addition of Rs.2,43,35,511/- by allowing the appeal of the assessee. In this regard, Ld. DR submitted before the bench that the assessee was unable to prove the identity, creditworthiness and genuineness of the transaction. Ld. DR further submitted that Ld. CIT(A)/NFAC has also not confronted the assessee regarding the different stand taken by him and without verifying anything from the assessee the addition was deleted. Accordingly, Ld. DR requested before the bench to set-aside the order passed by Ld. CIT(A)/NFAC and further requested to confirm the order passed by the Assessing Officer.

8. We have heard Ld. DR and perused the material available on record. In this regard, we find that the assessee has purchased certain land which was shown in his balance sheet and at the same time unsecured loan of Rs.2,43,35,511/- was shown in the balance sheet. Before the Investigation Wing, Mumbai it was stated by the assessee that the loan was obtained from Vinamra Universal Traders Pvt. Ltd. and before the Assessing Officer it was stated that the loan was obtained from Mumbai SEZ. We also find that the assessee failed to prove the identity of the creditor genuineness of transaction and creditworthiness of the loan creditor before the Investigation

Wing, Mumbai and for this reason alone the case of the assessee was reopened u/s 147 of the Act and notice u/s 148 of the Act was issued to the assessee. We further find that the assessee did not furnish any reply before the Assessing Officer regarding his different stand/reply with regard to unsecured loan before the Investigation Wing and before the Assessing Officer and therefore the addition was made in the case of the assessee. We further find that Ld. CIT(A)/NFAC also did not enquire from the assessee regarding different stand taken by the assessee with regard to unsecured loan and by simply relying on the documents furnished by the assessee without verifying the identity, creditworthiness and genuineness of the transaction has deleted the addition of Rs.2,43,35,511/-. Since the assessee has not furnished any reply, submission, documents, clarification and evidence with regard to identity, creditworthiness and genuineness of the transaction & also not furnished any reason of different stand taken by him before the Assessing Officer & before the Investigation Wing, Mumbai as well as before us, we are unable to accept the order passed by Ld. CIT(A)/NFAC and accordingly deem it appropriate to set-aside the order passed by Ld. CIT(A)/NFAC and restore the order passed by

the Assessing Officer. Thus, the grounds of appeal raised by the Revenue are allowed.

9. In the result, the appeal filed by the Revenue is allowed.

Order pronounced on this 20th day of November, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 20th November, 2025.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.