

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "E", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

I.T.A No.7240/Mum/2025  
(Assessment Year: 2020-21)

<b>Elite Packaging</b> 12, Oceanic Apartment, DR. Rajabali Patel Road, Breach Candy, Mumbai-400026 <b>PAN : AAAFE4992K</b>	<b>vs</b>	<b>Income Tax Officer Ward 17(3)(1),</b> Kautilya Bhavan, Maharashtra- 400051
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Praveen B. Shetty, CA  
Respondent by : Shri Hemanshu Joshi (SR DR)

Date of hearing : 12/01/2026  
Date of pronouncement : 16/01/2026

**ORDER**

**Per Anikesh Banerjee (JM):**

The instant appeal of the assessee filed against the order of the NFAC, Delhi [for brevity, 'Ld.CIT(A)'] order passed under section 250 of the Income-tax Act, 1961 (for brevity, 'the Act) for the Assessment Year 2020-21, date of order 11/09/2025. The impugned orders emanated from the order of the Learned Assessment Unit, Income-tax Department (for brevity, 'the Ld.AO') order passed 147 r.w.s. 144B of the Act, date of order 10/01/2025.

2. The brief facts of the case are that the assessee is partnership firm and carrying a business of dealers and packaging material PVC films, sheetings and decorative laminates etc. The partnership deed was duly executed on 15.10.1996 having three partners namely Mr. Prafulchandra Chatrabhuj Sanghvi, Mrs. Vibhuti Prafulchandra Sanghvi and Mrs. Viral Prafulchandra Sanghvi. The deed of partnership cum retirement was executed on 11/04/2012 & one of the partners Mrs Vibhuti P. Sanghvi was retired w.e.f. 01/04/2012. During the impugned assessment year the assessee filed the return with tax audit report. The notice under section 148 was issued and the assessee was asked to explain about the sundry creditors amount to Rs.95,12,125/-. During the assessment proceeding the assessee submitted the following details of the sundry creditors which is as follows:

<b>Sr. No.</b>	<b>Name of Party</b>	<b>Credit (Rs.)</b>
<b>1</b>	Midas	83,37,050.00
<b>2</b>	Synthetic Packers Pvt. Ltd.	7,37,110.00
<b>3</b>	Arora Packers	4,37,965.00
Total		95,12,125.00

3. The Ld. AO conducted verification and observed that, in the balance sheet of Midas for the financial year 2019–20, sundry debtors in the name of the assessee were reflected at Rs.14,67,350/-. The Ld. AO sought clarification with respect to the balance amount of sundry creditors aggregating to Rs.68,69,700/-, being the difference between Rs83,37,050/- and Rs.14,67,350/-. In response, the assessee explained that the amount of Rs.68,69,700/- was inadvertently shown in the books as payable to Midas, whereas, in fact, the said amount represented a

liability payable to a retired partner, which was erroneously reflected under the name of Midas. In support of this explanation, the assessee furnished documentary evidence, including confirmation from the retired partner and a copy of the partnership deed evidencing the retirement. The assessee also placed on record the balance sheets of earlier years, wherein the said amount was consistently reflected as a liability payable to the retired partner. However, without considering the aforesaid submissions and evidences, the Ld. AO treated the difference in sundry creditors as ceased liability and made an addition of Rs.68,69,700/- under section 41(1) of the Act, thereby enhancing the total income of the assessee. Aggrieved by the said addition, the assessee preferred an appeal before the Ld. CIT(A)). The Ld. CIT(A) dismissed the appeal. Being aggrieved, the assessee is in appeal before us.

4. The Ld. AR advanced arguments and filed a paper book comprising **pages 1 to 89**, which has been taken on record. The Ld. AR submitted that the assessee had furnished ledger confirmations of the retired partner, Mrs. Vibhuti Prafulchandra Sanghvi, for AYs 2018-19, 2019-20, and 2020-21. It was further submitted that, in the profit and loss accounts and balance sheets, the impugned amount has been consistently reflected as a liability payable to the retired partner from earlier years, namely AYs 2018-19 and 2019-20. The relevant financial statements have been placed on record at **pages 48 to 53** of the APB. The Ld. AR further submitted that the retired partner had duly confirmed the outstanding balance and that such confirmation was furnished before the revenue authorities. Despite the existence of a subsisting liability duly supported by documentary evidence, the Ld. AO proceeded to make an addition under section 41(1) of the

Act by treating the same as a bogus sundry creditor, which, according to the Ld. AR, is wholly unwarranted.

5. Per contra, the Ld. DR supported the orders of the revenue authorities and invited our attention to paragraph 5 of the impugned appellate order, which is reproduced here in below:

***“5. Decisions on Grounds of Appeal***

*I have gone through the facts of the case and have considered the submissions filed by the appellant as well as material available on record. The AO in the assessment order dt: 10.01.2025 has elaborately discussed all the relevant issues with regard to addition made of Rs. 68,69,700/- only. The appellant has not filed any return of income voluntarily u/s 139(1). No belated return was filled either u/s 139(4) by the appellant for the year under consideration. The appellant firm also did not get its accounts audited and did not file report of audit u/s 44AB of the Act, from the auditor in prescribed form, online through ITBA within the stipulated time provided in the statute. The case was reopened on the basis of sales figure reported before the GST authorities, only. The appellant started complying only when the case was reopened and notice, u/s 148 was issued, along with order u/s 148A(d) of the I.T.Act. The AO has passed a speaking order taking into consideration all the explanations provided by the appellant. No further explanation, in addition to what was stated in the course of assessment, has been furnished by the appellant during this appellate proceeding. The appellant has also not intended to furnish any additional evidence in support of its contention in the course of this appeal, as can be seen from the appeal memo submitted in form No.35. The copy of relevant portion is reproduced hereunder.*

12. Whether any documentary evidence other than the evidence produced during the course of proceedings before the Income-tax Authority has been filed in terms of Rule 46A	No		
12. If reply to 12 is Yes, furnish the list of such documentary evidence 1.			
Sl. No.	Document Name	Description	Documentary Evidence
		No Records Added	

*Compliance made by the appellant in response to statutory notices issued during assessment has been analysed properly and taking into consideration the explanation provided by the appellant, the AO has passed a speaking order and determined the quantum of taxable income*

*for the year. Having, regard to the facts of the case I do not find any reason to interfere with the order of the AO. Hence, all the grounds raised in this appeal are dismissed on merit.”*

6. We have heard the rival submissions and carefully considered the material available on record. On perusal of the facts, we find that the assessee had disclosed sundry creditors amounting to Rs.95,12,125/- in its balance sheet. In the party-wise details of sundry creditors, the assessee had inadvertently reflected an amount of Rs.83,37,050/- in the name of Midas. Upon verification, the assessee rectified the error and explained that Rs.68,69,700/- pertained to the account of the retired partner, while the balance amount of Rs.14,67,350/- correctly represented the liability payable to Midas. We further note that the impugned amount has been consistently reflected as a liability in the balance sheets of earlier years and there is no dispute regarding the existence of the liability itself. It is also undisputed that the assessee had duly explained the factual position during the assessment proceedings and furnished supporting documents, including confirmation from the retired partner. No fresh or additional evidence has been placed before us beyond what was already available before the revenue authorities.

The Ld. AO invoked the provisions of section 41(1) of the Act, which deal with cessation or remission of liability. However, the addition has effectively been made by treating the amount as a bogus sundry creditor, without bringing any material on record to demonstrate either remission or cessation of the liability. On the contrary, the retired partner has duly confirmed the outstanding balance and accepted the liability.

In view of the above facts and circumstances, we find no justification for sustaining the addition made under section 41(1) of the Act. Accordingly, we set aside the impugned appellate order and direct the deletion of the addition of Rs.68,69,700/- made by the Ld. AO. The ground raised by the assessee is allowed.

7. In the result, the appeal of the assessee bearing **ITA No.7240/Mum/2025** is allowed.

Order pronounced in the open court on 16<sup>th</sup> day of January, 2026.

Sd/-

(PRABHASH SHANKAR)  
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 16/01/2026  
Saumya Sr.PS

Sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI