

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “A” BENCH
(Virtual Court)
Before: Shri Rajpal Yadav, Vice President
And Shri Amarjit Singh, Accountant Member

ITA No. 550/Ahd/2018
Assessment Year 2012-13

Creative Fibre Products Ltd. E-503, Sanskar Flat, Opp: Karnavati Club, B/H. Shaily Hospital, S.G. Road, Ahmedabad PAN: AADCC7702K (Appellant)	Vs	The Dy. CIT, Circle-1(1)(2), Ahmedabad (Respondent)
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Revenue by: Shri S.S. Shukla, Sr. D.R.
Assessee by: Shri Aseem L. Thakkar, A.R.

Date of hearing : 25-01-2021
Date of pronouncement : 22-03-2021

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee’s appeal for A.Y. 2012-13, arises from order of the CIT(A)-1, Ahmedabad dated 29-12-2017, in proceedings under section 143 of the Income Tax Act, 1961; in short “the Act”.

2. The solitary ground of appeal of the assessee is directed against the decision of Id. CIT(A) in confirming the addition of Rs. 10,49,000/- made by the Assessing Officer treating the unsecured loan as unexplained cash credit.

3. The fact in brief is that return of income declaring loss of Rs. (-) 97,46,138/- filed on 30th Sep, 2012. The case was subject to scrutiny assessment and notice u/s. 143(2) of the act was issued on 12th August, 2013. During the course of assessment on verification of the aforesaid and other detail the Assessing Officer noticed that assessee has shown unsecured loan of Rs. 1,21,42,605/- out of which an amount of Rs. 10,49,000/- was received from Shri Romi P. Patel during the year under consideration. To verify the genuineness and creditworthiness of this loan amount, the Assessing Officer has called the detail. In response, the assessee has furnished copy of acknowledgement of return of income filed by Romi P. Patel for the assessment year 2012-13. On perusal of the same, the Assessing Officer observed that assessee has shown only income of Rs. 61,140/- in the return of income filed. Thereafter, the assessee was asked to furnish copy of bank statement, creditworthiness and genuineness of the transactions. However, the assessee has failed to furnish the aforesaid detail during the course of assessment proceedings. Therefore, the Assessing Officer has treated the unsecured loan to the amount of Rs. 10,49,000/- as unexplained u/s. 68 of the act and added to the total income of the assessee.

4. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has dismissed the appeal of the assessee stating that in view of various discrepancies pointed out by the Assessing Officer, the assessee was

not able to prove genuineness of the transaction and creditworthiness of the lender.

5. Heard both the sides and perused the material on record. During the course of appellate proceedings before Id. CIT(A), the assessee submitted that Assessing Officer has asked to produce the bank statement of Romi P. Patel for the last year. Because of providing inadequate period of only three days the details could not be collected. Considering the submission of the assessee, the Id. CIT(A) has allowed the assessee to submit the additional evidences under rule 46A of the Act. Therefore, the assessee has produced the following information before the Id. CIT(A).

“1. *Ledger Account of Romi P Patel (In the books of Creative Fibre Products Pvt. Ltd.)*

2. *Bank statement of Romi P Patel (Prop-Creative Fibre Products) showing the amount of loans given to Creative Fibre Products Pvt. Ltd.*

3. *Balance confirmation of the corresponding party i.e. A M Enterprises & Patel Manilal Prabhudas & Sons in turn who had given loan to Romi P Patel (Prop. Creative Fibre Products) through account payee cheque.”*

The same has been admitted as additional evidences and remand report was called from the Assessing Officer. The Assessing Officer reported that Shri Romi P. Patel has not made compliance with the summon issued during the course of remand proceedings. Vide letter 11th May, 2017 assessee has made written submission and filed copy of PAN, copy of IT Return, copy of balance confirmation. As per information filed, the source of unsecured loan given by Shri Romi P. Patel to the assessee was explained as under:-

“a) *An amount of Rs.5,00,000/- was received from M/s. A M Enterprises, Prop. Sh. Kamlesh A. Patel on 12.05.2011*

b) *An amount of Rs.5,00,000/- was received from M/s. Patel Manilal Prabhudas & Sons, a partnership firm.*

c) An amount of Rs.49,000/- was stated to be paid in cash by Sh. Romi Patel which is claimed to be paid out of cash withdrawal of Rs. 1,00,000/- from the bank account no 08902020000108 of HDFC Bank, Prahiadnagar Branch, Ahmedabad held by his Proprietorship Concern M/s. Optisef Products.”

The comments of the Assessing Officer at the remand proceedings are mentioned at page 6 of the order of the Id. CIT(A). At serial no. (iv) the Assessing Officer reported that assessee has furnished details and documents which prima-facie show the source of funds in the hands of the lender Sh. Romi Patel who is also the director of the assessee company. The Assessing Officer has only expressed his observation to the source of funds to the amount of only Rs. 49,000/- claimed out of cash withdrawn almost two and a half months prior to the deposit and also stated that lender (director of the assessee company) has failed to make compliance with the summon issued under section 131 of the Act. It was also reported loan transactions were reflected in the copy of bank statement of the lender as well as the receiver. Without specifically considering the aforesaid facts and material, the Id. CIT(A) has held in a general manner that the assessee has failed to establish the genuineness and creditworthiness of the loan creditors. As elaborated above in this order, the assessee has furnished additional evidences duly admitted under 46A by the Ld. CIT(A) demonstrating that the depositor Shri Romi P. Patel has received an amount of Rs. 5 lacs from A.M. Enterprises and on 12th May, 2011, the depositor had also received Rs. 5 lacs from M/s. Manilal Prabhudas & Sons a partnership firm and balance of Rs. 49,000/- was out of cash withdrawal of Rs. 1 lacs from his bank account maintained with HDFC Bank. It is noticed that these additional evidences has not been disproved by the Assessing Officer by making further investigation and verification. In the light of the above facts and

circumstances, we consider that ld. CIT(A) is not justified in sustaining the addition, therefore, the appeal of the assessee is allowed.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 22-03-2021

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT
Ahmedabad : Dated 22/03/2021

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद