

**Before Dr. BRR Kumar, Vice President
And Ms. Suchitra Kamble, Judicial Member**

Nirbhay Consultants Pvt. Ltd. 201, Maruti Crystal Opp. Rajpath Club, S.G. Road, Ahmedabad PAN: AACCN8394B (Appellant)	Vs	The ITO, Ward-3(1)(1) Ahmedabad (Respondent)
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Date of hearing : 04-09-2025
Date of pronouncement : 04-11-2025

Per Suchitra Kamble, Judicial Member:

This is an appeal filed against the order dated 09-11-2024 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2011-12.

2. The grounds of appeal are as under:-

“Your appellant being aggrieved by the order passed & confirmed by the Hon’ble Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) u/s 250 of the income Tax Act 1961 (“the Act”) presents this appeal against the same on the following grounds:

1. The Ld. CIT(A) has upheld the reopening u/s 147 of the Act by the Assessing Officer. It is submitted that on facts and circumstances of the case, the whole reopening of assessment is bad in law and void-ab-initio and thus the order upheld by the Ld. CIT(A) deserves to be quashed and be set aside.

2. The Ld CIT(A) has erred in treating the genuine loan transactions as unexplained cash credit and thereby confirming the addition of Rs. 1,02,15,000/- u/s 68 of the Act without appreciating the documents and explanation provided alongwith written submission. It is submitted that the complete details, explanations and evidences were filed proving the genuineness of loan reflected in bank & in audited accounts from Party & his identity & creditworthiness was proved beyond doubt and thus there is no question of treating the same as unexplained cash credit. It is therefore prayed to delete the incorrect and illegal addition. The same be held now.

3. The Ld CIT(A) has erred in confirming the substantive addition U/s 68 of the Act in your appellant's case in spite of having the knowledge/records that the re-open proceedings U/s 147 of the Act for very same year i.e. A.Y 2011-12 has been already taken up by the Ld. A.O of the party from whom your appellant company has taken the loan i.e. M/s Fiduciary Infrastructure Pvt. Ltd. It is therefore submitted that, the substantive addition so confirmed is totally incorrect & illegal, the same may be deleted.

4. The Order passed by the Ld. CIT(A) is bad in law and contrary to the provisions of law and facts. It is submitted that the same be held so now.

5. Your appellant craves leave to add, alter and/or to amend all or any of the grounds before the final hearing of appeal.”

3. The assessee company's case was reopened on the basis of information received from Investment Wing, Kolkata Unit under the subject-Information in the case of M/s. Nirbhay Consultants Pvt. Ltd. related to Fiducia Infrastructure Pvt. Ltd. for transfer of amount of Rs. 1,02,00,000/- into bank account of assessee as large value non-cash transactions in CAA accounts. Notice u/s. 148 was issued on 31-03-2018 and in response the assessee company did not file any return as required within the 30 days from the date of service of notice. Thereafter, in response to the notice u/s. 142(1) dated 10-07-2018 and 21-08-2018, the

assessee filed reply dated 01-09-2018 stating that it had filed return of income u/s. 148 of the Act on 25-06-2018 declaring income of Rs. 1,22,482/-. In response to the notice u/s. 142(1), the assessee company filed copy of financial statements for assessment year 2011-12 and contended that it had no bank account with ICICI but had bank account with Axis Bank. The assessee also stated that it had not received any fund from Talent Real Estate Pvt. Ltd. and the amount of Rs. 1,02,00,000/- actually received from Fiducia Infrastructure Pvt. Ltd. during the year under consideration. The Assessing Officer observed that the assessee has admitted that there were financial transactions in the form of loan of Rs. 1,02,15,000/- from Fiducia Infrastructure Pvt. Ltd. on 22-03-2011 and the assessee company had made payment of Rs. 27,50,000/- only on 18-03-2015 i.e. four years of taking this loan. Till 31-03-2018, there was no repayment of loan has been made by the assessee company and remaining balance of Rs. 89,65,000/- was shown outstanding from year to year and till 31-03-2018. It was noticed that initially M/s. Gotil Properties Pvt. Ltd. has transferred the amounts to the account of Talent Real Estate Pvt. Ltd. on 22-01-2011 and prior to this date there was zero balance in the account of Talent Real Estate Pvt. Ltd. Thereafter amount of Rs. 1,02,15,000/- was transferred to Fiducia Infrastructure Pvt. Ltd. by Talent Real Estate Pvt. Ltd. on 22.03.20211. Thus, this fund was transferred by Talent Real Estate Pvt. Ltd. was not its own but received from M/s. Gotil Properties Pvt. Ltd.. Thus, the Assessing Officer clearly sets out that original fund to repay the loan from Jamuna Residency Pvt. Ltd. were provided by Gotil Properties Pvt. Ltd. through various Kolkata based entities by opening temporary bank accounts by giving local addresses at Gujarat. After taking cognizance of the assessee's reply and the

details, the Assessing Officer made addition of Rs. 1,02,15,000/- as unexplained credit u/s. 68 of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. Ground No. 1 is not pressed by the assessee hence dismissed.

6. As regards ground nos. 2, 3 & 4, the ld. A.R. submitted that CIT(A) erred in treating the genuine loan transactions as unexplained cash credit and thereby confirming the addition of Rs. 1,02,15,000/- u/s. 68 of the Act without appreciating the documents and explanation provided along with written submission. The ld. A.R. submitted the complete details, explanations and evidences which were filed proving the genuineness of loan reflected in bank account and in audited accounts from party and his identity and creditworthiness was also proved and thus there is no question of treating the same as unexplained cash credit. The reopening of the proceedings u/s. 147 of the Act for very same year i.e. assessment year 2011-12 has already taken place of the party from whom the assessee company has taken the loan i.e. M/s. Fiducia Infrastructure Pvt. Ltd. and therefore the genuinity of the loan was explained by the assessee. From the perusal of the page 19 of the order of the CIT(A), it emerges that the balance amount was repaid in financial year 2018-19 and the repayment of loan was only after completion of assessment year where this static balance without any repayment till 31-03-2018.

7. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

8. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the CIT(A) itself in the order in para 5.2.2 clearly mentioned that the assessee during assessment proceedings submitted that the loan taken from M/s. Fiducia Infrastructure Pvt. Ltd. was utilized for repayment of loan to Nirbhay Capital Services Pvt. Ltd. which was reflected in the ledger account of the appellant company with Nirbhay Capital Services Ltd.. Thus, it is evident from the ledger account of the assessee with Nirbhay Capital Services Pvt. that the said loan was for business purpose. Since this is the genuine business arrangement for the repayment of loan to Nirbhay Capital Service Pvt. Ltd. The assessee has established the nexus of business connection. Thus, the Assessing Officer as well as the CIT(A) ignored this crucial fact, therefore, ground nos. 2 and 3 is allowed.

9. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 04-11-2025

Sd/-
(Dr. BRR Kumar)
Vice President

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 04/11/2025

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