

Merely having entries in books of account cannot make loan genuine - Financial capacity of lenders should be proved

Summary – The High Court of Bombay in a recent case of Swastik Realtors, (the Assessee) held that merely having entries in books of account cannot make loan genuine - financial capacity of lenders should be proved

Facts

- The assessee was engaged in the real estate business. The Assessing Officer observed that the appellant had shown to have taken a loan from an entity.
- The investigation wing of the department noticed that the lender was indulged in the activity of accommodation entries and made addition in hands of the assessee.
- On appeal, the Commissioner (Appeals) and ITAT upheld the order of the Assessing Officer.
- On appeal to the High Court:

Held

- The HC stated that where any sum is found credited in the books of an assessee; for which the assessee offers no explanation about nature and source, or the explanation is not satisfactory, the sum so credited may be charged to Income tax as the income of the assessee. The question before the authorities and the Tribunal was whether the explanation offered by the appellant was satisfactory.
- It is clear that the lenders were indulging in accommodation entries. The burden is on the appellant to show the genuineness of the entry as well as the financial capacity and the surrounding circumstances of the lender.
- Hence, since no such material has been placed before the lower authorities, they have correctly denied the loan transaction and held it to be a non-genuine transaction. The view taken by the Tribunal is, not perverse and cannot give rise to a question of law.