

M/s. Srimukha Precision products,
Plot No. 51, Ambattur Industrial
Estate, Chennai 600 058.
[PAN:AAAFS1929A]

The Assistant Commissioner of
Income Tax,
Non Corporate Circle 7(1),
Chennai . 34.

(अपीलाथ /Appellant)

(ढयथ/Respondent)

अपीलाथ का ओर से / Appellant by : Shri M. Karunakaran, Advocate

ढयथ का ओर से/Respondent by : Shri Gurubashyam, JCIT

सुनवाई का तारख / Date of hearing : 21.06.2017

घोषणा का तारख /Date of Pronouncement : 10.07.2017

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the ex-parte order of the Id. Commissioner of Income Tax (Appeals) 7, Chennai, dated 07.02.2017 relevant to the assessment year 2012-13.

2. Against the ex-parte orders of the authorities below towards addition of .1,08,34,746/- as unexplained unsecured loans and an estimated interest at .10,87,792/- totalling in all .1,21,35,000/-, by filing petition for admission of additional evidence under Rule 29 of the ITAT Rules, 1963, the Id.

pleaded for admission of the evidences, which were not filed before the authorities below due compelling reasons, the Auditor has out of station for putting his appearance before the Id. CIT(A) on 07.02.2017.

3. Brief facts of the case are that the assessee is engaged in manufacturing of industrial tools and filed its return of income on 28.09.2013 admitting a total income of ₹1,17,51,896/-. The return filed by the assessee was selected for scrutiny and issued notice under section 143(2) of the Income Tax Act, 1961 [Act-in short] dated 08.08.2013. Notice under section 142(1) of the Act was issued on 26.05.2014. Thereafter, the assessee was given various opportunities of being heard to the assessee from 29.10.2013 to 30.01.2015 and final opportunity was given on 09.02.2015. Despite sufficient opportunities were given to the assessee, the assessee has not appeared and filed details as called for. Accordingly, based on the materials available on record, the Assessing Officer has proceeded to conclude the assessment under section 143(3) of the Act on 19.03.2015 determining the total income of the assessee at ₹2,38,86,896/- by making addition towards unexplained credit under section 68 of the Act along with interest component at ₹1,21,35,000/-.

4. The assessee carried the matter in appeal before the Id. CIT(A). Despite sufficient opportunities given by the Id. CIT(A) by posting the

om 22.08.2016 to 07.02.2017, neither the assessee has appeared and filed the details before the Id. CIT(A) nor filed any documentary evidences to substantiate its claim, by considering the facts and circumstances of the case, the Id. CIT(A) confirmed the addition made in the assessment order.

5. On being aggrieved, the assessee is in appeal before the Tribunal and filed the additional evidences under Rule 29 of the ITAT Rules and pleaded for its admission.

6. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. Admittedly, the assessee has not filed any details or explanation in support of its claim towards credits appeared in its books of account either before the Assessing Officer or before the Id. CIT(A). Based the materials available on record, the Assessing Officer was compelled to conclude the assessment by making addition towards unexplained credits to the extent of .108.35 lakhs and also calculated interest portion of .13.00 lakhs and disallowed total amount of .121.35 lakhs, which was confirmed by the Id. CIT(A). Before us, by filing ledger account, bank statement, etc., the Id. Counsel for the assessee and prayed that the assessee may be given one more opportunity to file the same before the Assessing Officer to meet the ends of justice. Under the above facts and circumstances, we remit the matter back to the file of the

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the issue afresh in accordance with law after verifying the details as may be filed by the assessee. Since the assessee was in default in not complying to the statutory notices issued under the Income Tax Act, by the Assessing Officer as well as Id. CIT(A) and filed the complete details before the authorities below, we order the assessee to remit .25,000/- [Rupees twenty five thousand only] to the Prime Minister's Relief Fund and file the challan/receipt thereon before the Assessing Officer and file complete details in respect of the unsecured loans/unexplained credits for verification. Moreover, the assessee is directed that it should not take adjournment except for just cause. Accordingly, the ground raised by the assessee is allowed for statistical purposes.

7. We may, before parting with this order, clarify that in some cases, the amount/s, as explained to us, has been transferred from the creditors' account [under the head ~~trade creditor~~] to his loan account, contending that there is, therefore, no fresh credit during the year. In our view, in-as-much as there is a change in the nature of the credit, the fact of the transfer shall not be, by itself, conclusive of the matter, and shall require being proved u/s. 68. A trade credit is recoverable during the currency of the trade cycle, and may well be financed from trade credits [of the creditor]. A loan, on the other hand, removes the amount from the creditor's working capital, so that it has been financed on the long (indefinite) term basis, i.e., has capacity

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and be concern as to genuineness as well. An amount forming part of the working capital, generating revenue, would not ordinarily be converted into a loan, which appears to be without interest, and (revenue) is in any case not at par with the revenue being generated, besides being subject to a higher financial risk. In other words, even though the identity is proved for such credits, there could be concerns as to genuineness and capacity. The Assessing Officer shall, accordingly, examine the transaction/s on the anvil of section 68 and decide on merits, issuing definite findings of fact.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 10th July, 2017 at Chennai.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 10.07.2017

Vm/-

आदेश का प्रतिलिपि अर्पणत/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. प्रभागीय प्रतिलिपि/DR & 6. गाडफ़ाईल/GF.