

**IN THE INCOME TAX APPELLATE TRIBUNAL "G", BENCH
MUMBAI**

**BEFORE SHRI C.N. PRASAD, JM
&
SHRI M.BALAGANESH, AM**

**ITA No.5325/Mum/2018
(Assessment Year :2012-13)**

M/s. Sam Hitech Components Pvt. Ltd., Gate No.128/1 & 128/2 Pirangut, Tal-Mulshi Distt: Pune-412115	Vs.	ACIT, Circle – 1 Kalyan
PAN/GIR No.AAJCS7403F		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri V. Vijaykumar
Date of Hearing	03/02/2020
Date of Pronouncement	19/02/2020

आदेश / O R D E R

PER M. BALAGANESH (A.M):

This appeal in ITA No.5325/Mum/2018 for A.Y.2012-13 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-1, Mumbai in appeal No.THN/CIT(A)-2/340/2015-16 dated 28/04/2015 (Id. CIT(A) in short) against the order of assessment passed u/s.144 of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 30/03/2015 by the Id. Asst. Commissioner of Income Tax, Circle-1, Kalyan (hereinafter referred to as Id. AO).

2. None appeared on behalf of the assessee and no adjournment petition was filed on behalf of the assessee. The notice sent to the

assessee in the address mentioned in Form-36 had been returned unserved. Hence, we proceed to dispose of the appeal on hearing the Id. DR and based on the materials available on record. We find that the preliminary ground raised by the assessee before us was that even the order of the Id. CIT(A) was passed *exparte* and that notice of hearing was not received by the assessee from the Id. CIT(A). But we find from page 2 of the order of the Id. CIT(A), that notice on hearing was issued to the assessee on 22/11/2016, 18/01/2017, 20/02/2017 and 15/03/2017 and on all these four occasions, assessee either in person or through its authorised representative was neither present nor sought any adjournment. In this background, the Id. CIT(A) proceeded to dispose of the appeal *exparte* based on the materials available on record without waiting for the presence of the assessee or its authorised representative.

3. We find that the assessee did not make his presence either in person or through the authorised representative before the Id. AO which is evident from the fact that assessment was completed u/s.144 of the Act. We find that assessee is engaged in the business of manufacturing automobile components and had returned loss of Rs.16,88,919/-. The Id. AO observed that during the year there was an increase in unsecured loans received by the assessee to the tune of Rs.2,31,19,449/- and for the same, the three necessary ingredients of Section 68 of the Act i.e. identity of the creditors, creditworthiness of the creditors and genuineness of the transactions were not proved by the assessee during the course of assessment proceedings and accordingly, the said sum of Rs. 2,31,19,449/- was brought to tax as unexplained cash credit by the Id. AO in the assessment. Even before the Id. CIT(A), the assessee could not furnish any confirmation from the alleged creditors and to prove the aforesaid three necessary ingredients of Section 68 of the Act. The Id. CIT(A) also observed that assessee had not furnished any evidence to

prove that the loans received during the year were genuine and the creditors had sufficient creditworthiness to advance loans to the assessee. Accordingly, the Id. CIT(A) had concluded that the assessee had not discharged its primary onus to prove the nature and source of credit within the meaning of Section 68 of the Act despite several opportunities being granted. In support of his contentions, the Id. CIT(A) had also placed reliance on various decisions of Hon'ble High Courts which are not reiterated herein for the sake of brevity. Moreover, this is more a factual issue and hence we resort to address the dispute on facts without resorting to any case laws. At the cost of repetition, we would like to state that even before us, the assessee had not bothered either to be present in person or through its authorised representative or through filing of written submissions or paper book to substantiate the nature and source of credit for the loans received during the year in the sum of Rs.2,31,19,449/-. In these circumstances, we do not deem this as a fit case to interfere with the action of the Id. CIT(A) and accordingly confirm the addition made by the Id. AO u/s.68 of the Act. Accordingly, the grounds raised by the assessee are dismissed.

4. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on this 19/02/2020

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 19/02/2020
KARUNA, sr.ps

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai