



IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH MUMBAI
BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER
ITA No.1464/Mum/2019
(Assessment Year:2013-14)

Mars Infra, 102, The Avenue, Sahar Airport Road, Andheri, Mumbai.	Vs.	Income Tax Officer-24(2)(4), Mumbai
PAN: AAVFM 1589 P		
Appellant)	..	Respondent)

Assessee by	Shri A.K. Ghosh (AR)
Revenue by	Shri Dharam Veer Singh (DR)
Date of Hearing	12/03/2020
Date of Pronouncement	24/08/2020

आदेश / ORDER

PER R.C.SHARMA (A.M):

This is an appeal filed by the assessee against the order of the Id. Pr.CIT-36, Mumbai for the A.Y. 2013-14 in the matter of order passed U/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short, the Act).

2. In this appeal, the assessee is aggrieved for reopening of the assessment as well as for making addition of Rs. 21,60,373/- U/s 68 of the Act.

3. Rival contentions have been heard and record perused. Facts in brief are the assessee is a partnership firm incorporated vide

partnership deed dated 24/05/2012 with the objective to carry out the activities of the business of builders and land developers and any other activities related to real estate. The firm has not commenced any business during the year under consideration. For the assessment year under consideration, the assessee filed its return of income on 29/12/2013 declaring total income at Rs. NIL. The case was reopened U/s 147 of the Act on the basis of information received from the office of DGIT(Inv), Mumbai that the assessee has acquired bogus loan transactions for AY 2012-13 amounting to Rs. 21,60,373/- from Fast Line Multitrade Pvt. Ltd.. During the course of assessment proceedings, the A.O. made addition U/s 68 of the Act which was confirmed by the Id. CIT(A) against which the assessee is in further appeal before the ITAT.

4. I have considered the rival contentions and carefully gone through the orders of the authorities below and found from the record that the assessee had taken an unsecured loan from M/s Fast Line Multitrade Pvt. Ltd. during the F.Y. 2012-13, regard to which following documents were filed before the A.O.

1. Confirmation of Accounts duly signed for F.Y. 2012-13 and F.Y. 2013-14
2. Bank statement of M/s Fast Line Multitrade Pvt. Ltd. covering relevant transactions.

3. Profit & Loss Account, balance sheet, audit report alongwith all relevant schedules for A.Y. 2013-14 and A.Y. 2014-15.

Thus, the unsecured loan was received from M/s Fast Line Multitrade Pvt. Ltd. through RTGS dated 03/07/2012 amounting to Rs. 20,00,000/- and the said loan was returned back through RTGS dated 30/01/2014, the above said transactions is carried out through bank and the confirmations to the same effect were filed before the lower authorities. Accordingly, I am satisfied that the assessee had discharged its primary onus with regard to genuineness, creditworthiness and identity of the loan creditors. The department has also accepted repayment of the loan in the immediate next year through RTGS dated 30/01/2014, accordingly, there is no justification for the addition so made, therefore, the A.O. is directed to delete the same.

5. Before parting, it is noted that the order is being pronounced after ninety (90) days of the hearing. However, taking note of extraordinary situation in the light of the COVID-19 pandemic and lockdown, the period of lockdown days to be excluded. For coming to such a conclusion, we rely upon the decision of the Coordinate Bench of the Mumbai Tribunal in the case of DCIT vs JSW Limited in ITA No. 6264/Mum/2018 & 6103/Mum/2018, Assessment Year 2013-14, order dated 14th May, 2020.

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

Order pronounced by listing the result on the Notice Board of the Bench under Rule 34(4) of the Appellate Tribunal Rules, 1963.

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 24/08/2020
*Ranjan

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.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai