

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
MS. KAVITHA RAJAGOPAL, JM

ITA No. 2408/Mum/2021

(Assessment Year 2012-13)

Poorn Mercantile Pvt. Ltd.
304, Orchid, Mantri Park, Film
City Road, Goregaon (E)
Mumbai-400063

Vs.

Ward 4(3)(1)
AO NFAC
New Delhi
Delhi-110001

(Appellant)

(Respondent)

PAN No. AAFCP8314E

Assessee by : None

Revenue by : Shri Himanshu Sharma, DR

Date of hearing: 24.05.2022

Date of pronouncement : 31.05.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by the Poorn Mercantile Pvt. Ltd. against the order passed by the Commissioner of income-tax (Appeal) [the learned CIT(A)], National Faceless Appeal Centre, Delhi (NFAC) for Assessment Year 2012-13. The assessee has raised solitary ground of sustaining an addition of Rs.39,000/-.
02. The assessee has raised the following grounds of appeal:-

"On the facts and circumstances of the case and in law the Ld. Authorities below, has erred in sustaining an addition of Rs. 39,000 u/s 68/37 of the IT Act, which was excessive, and the reasons assigned for doing so was wholly wrong, irrelevant to the facts of

the case and not in accordance with the provisions of Income Tax Act, 1961 and rules made there under and against the principles of natural justice.

2) On the facts and circumstances of the case and in law, the AO has erred in levying the interest u/s 234B and 234C of the IT which was wholly wrong, and against the provisions of Income Tax Act, 1961 and rules made there under.

3) On the facts and circumstances of the case and in law, the AO has erred in initiating the penalty proceedings u/s 271(1)) of the Income Tax Act, 1961 which were wholly wrong, irrelevant, and not in accordance with the facts and circumstances of the case as no income is concealed nor any inaccurate particulars were furnished.

4) The appellant craves leave to add, alter, modify and delete all or any of the aforesaid grounds of appeals on or before the date of hearing."

03. The fact shows that the assessee is a private limited company engaged in the business of trading and investment. The assessee filed return of income on 13th March, 2013 declaring total income of Rs.770/-. This return was processed under section 143(1) of the Act. Subsequently, information was received that certain income chargeable to tax has escaped assessment and therefore, notice under section 148 of the Act was issued on 30th March, 2019. In response to that notice, assessee

filed return of income on 24th June, 2019 at the same income. The reason recorded shows that assessee is one of the beneficiary of bogus transaction of Rs. 13 lacs one Shell Company managed and control by Mr. Rajesh Kumar Bhutoria and L Kumar Periwal. The assessee was issued show cause notice. In reply to that, assessee submitted that it is not the beneficiary of the above sum of Rs. 13 lacs, however, it was stated that assessee is merely a part of circular trading of funds and therefore, only the commission income ranging between, 0.5% to 1% is the income of the assessee. The learned Assessing Officer issued notice under section 133(6) of the Act to the companies from where the funds have been received. Both the companies responded in response to that notice on 3rd December, 2019. Based on this, the learned Assessing Officer further issued notice on 5th December, 2019, about why the transaction with the above company should not be considered as income of the assessee. Assessee further stated that if the above entries are considered to be circular trading of funds then the only commission can be taxed in the hands of the assessee. The learned Assessing Officer thereafter held that it would be fair and reasonable to estimate the commission at the rate of 3% in the hands of the assessee. Therefore, on the total transaction of Rs.13 lacs the learned Assessing Officer made an addition of only Rs.39,000/- to the total income of the assessee as per order dated 23rd December,

2019 passed under section 143(3) read with section 147 of the Act.

04. Assessee preferred the appeal before the learned CIT(A) who dismissed the appeal of the assessee on merits. Therefore, now assessee is aggrieved against the order of the learned CIT(A) and has preferred appeal before us.
05. Despite notice to the assessee, none appeared on behalf of the assessee. Therefore, the issue is decided on merits of the case.
06. The learned Departmental Representative vehemently supported the order of the lower authorities.
07. We have carefully considered the rival contention and perused the orders of the lower authorities. To the extent of accommodation entry of Rs.13 lacs received by the assessee from Deepsikha suppliers Pvt. Ltd and Beauty suppliers Pvt. Ltd. The learned Assessing Officer considered assessee to be merely accommodation entry provider and taxed the commission income at the rate of 3% on the above sum. The assessee could not show what is the percentage of income, it is earning on such accommodation entries. The learned CIT(A) also confirmed the same. We also found that there is no infirmity in the order of the lower authorities in taxing 3% of the circular trading/ accommodation entry provided by the assessee. In view of this, we confirm the order of the lower



authorities and dismiss all the ground of the appeal raised by the assessee.

08. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the open court on 31.05.2022.

Sd/-
(KAVITHA RAJAGOPAL)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated:31. 05.2022

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai