

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

**BEFORE SHRI S. RIFAUH RAHMAN, HON'BLE ACCOUNTANT MEMBER AND
SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**ITA NOS. 2473, 2474 & 2475/MUM/2019
(A.Ys: 2011-12, 2012-13 & 2013-14)**

M/s. Artedz Fabs Pvt. Ltd., 206, Gambhir Industrial Estate Off Aarey Road, Goregaon (E) Mumbai - 400063 PAN: AAFC8264N	v.	DCIT – Circle – 12(1)(1) Room No. 223, 2 nd Floor Aayakar Bhavan, M.K. Road Mumbai - 400020
(Appellant)		(Respondent)

Assessee by	:	None
Department by	:	Shri Mehul Jain
Date of Hearing	:	14.06.2022
Date of Pronouncement	:	21.06.2022

ORDER

PER S. RIFAUH RAHMAN (AM)

1. These appeals are filed by the assessee against different orders of the Learned Commissioner of Income Tax (Appeals)-20, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 25.02.2019 for the A.Y.2011-12 and 07.02.2019 for the A.Y. 2012-13 and 2013-14.

2. Since appeals are belonging to the same assessee, therefore, for the sake of convenience, these appeals are clubbed, heard and disposed off by this consolidated order. We are taking ITA.No. 2473/Mum/2019 for Assessment Year 2011-12 as a lead case.

3. Assessee has raised following grounds in its appeal: -

- "1. The Hon. CIT(A) ought to have appreciated the fact that the Appellant could not represent the matter due to circumstances beyond their control.*
- 2. The Hon. CIT(A) and the Ld. A.O. erred in assuming and presuming that there was escapement of income.*
- 3. The Ld. A.O. erred in re-opening the assessment U/S. 148.*
- 4. The Hon. CIT(A) was not justified in confirming the addition made by the A.O. on account of interest on Bank Loan @ 13.25% of Rs.74,126/- taken for the-Purchaser of the Fixed Assets which were considered as non-genuine in earlier years, without appreciating the facts and circumstances of the case.*
- 5. The Hon. CIT(A) erred in confirming the addition of Depreciation of Rs.2,66,348/on account of Purchase of the Fixed Assets which were considered as non-genuine in earlier year, without appreciating the facts and circumstances of the case."*

4. We observe from the record that the hearing was posted since 17.02.2020, none appeared on behalf of the assessee until today except on 25.01.2021 a letter was filed for adjournment. The hearing was posted 17 times and none appeared. We deem it fit and proper to proceed to dispose off these appeal as it is pending from 2019. The notice sent to

the assessee has been duly served as is evident from the acknowledgement available on record. Since the assessee has not appeared in spite of the several notices, it seems that the assessee is not interested in prosecuting the appeal. Therefore, we decided to dispose off these appeals on merits after hearing the Ld.DR and examining the material on record.

5. Ld. DR briefly explained the facts and supported the orders of the lower authorities.

6. Heard Ld. DR and perused the material placed on record, orders of the authorities below. On perusal of the order of the Ld.CIT(A), we find that the Ld.CIT(A) considered this aspect of the matter elaborately with reference to the submissions of the assessee and the averments in the Assessment Order and sustained the addition made by the Assessing Officer. While holding so, the Ld.CIT(A) observed as under: -

"5.4.1 I have considered the rival contentions. The AO held the purchases as bogus mainly on the ground that the appellant could not produce documentary evidence of transportation of goods from the godowns of the purported sellers to appellant's factory. The AO also took into account the adverse findings of the Sales Tax Department, Govt of Maharashtra in respect of the parties mentioned above. I agree with the AO that the appellant could not prove the transportation of goods claimed to have been purchased in the course of the appellate proceedings, the appellant could not rebut

the findings a of the AO. In fact, as mentioned-above, the appellant did not attend any of the hearings. Therefore, i see no reason to interfere with the findings of the AO on this point. In the result, ground of appeal No.2 is dismissed.

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6.4. Decision on ground of appeal No. 3

6.4.1 I have considered the rival contentions. Subject matter of this ground of appeal is consequential to the findings of the AO in respect of the additions were fixed assets discussed in ground No.1 above. Since the appellant's claim regarding additions to fixed assets has been held to be bogus, the interest relatable to the fund siphoned off is not allowable .as expenditure under section 36(1)(iii) of the Act. I, therefore, confirm the disallowance made in this regard by the AO. In the result, ground of appeal No. 3 is dismissed.

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7.4 Decision on ground of appeal No. 4:

7.4.1 I have considered the rival contentions. Subject matter of this ground of appeal is consequential to the findings of the AO in respect of the additions were fixed assets contained in the assessment order for AY 2009-10. Since the appellant's claim regarding additions to fixed assets have held to be bogus, the depreciation u/s 32 of the Act relatable to those fixed assets is not allowable. I, therefore, confirm the disallowance made in this regard by the AO. In the result, ground of appeal No. 4 is dismissed."

8. In the result, the appeal is dismissed."

7. On a careful perusal of the order of the Ld.CIT(A) and the reasons given therein, we do not find any reason to interfere especially when there is no material to controvert the findings of the First Appellate Authority. Accordingly, appeal filed by the assessee is dismissed.

8. Since the facts in other appeals are identical, the decision taken in ITA.No. 2473/Mum/2019 shall apply mutatis-mutandis to the other three appeals i.e. ITA.No. 2474 & 2475/Mum/2019. We order accordingly.

9. In the result, appeals filed by the assessee are dismissed.

Order pronounced in the open court on 21st June, 2022.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Mumbai / Dated 21.06.2022
Giridhar, Sr.PS

Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

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, Mum