

IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH, MUMBAI

BEFORE  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No.2434/Mum/2019  
(Assessment Year 2011-12)

M/s Wings Eco Homes (P) Ltd. 110/114, Building No.4 Mittal Industrial Estate Marol Naka, Andheri (East) Mumabi-400059	Vs.	Dy. CIT Circle-11(3)(2), M.K.Road, Mumbai-400020.
PAN/GIR No. : AAACW4605N		
Appellant	..	Respondent

Appellant by :	Shri Dhaval Shah.AR
Respondent by :	Shri Hemant Kumar Chimanlal Leava.CIT-DR

Date of Hearing	05.07.2022
Date of Pronouncement	07.07.2022

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-18, Mumbai passed u/s 143(3) and 250 of

the Income Tax Act, 1961. The assessee has raised the following grounds of appeal:

*“1. On the facts and circumstances of the case and in law the Ld. CIT(A) erred in upholding the addition made by the AO u/s 68 of Rs.29,00,000/- in respect of Unsecured Loans of 7 parties on the grounds that the parties have not responded to the notices or that the notices have returned un served.*

*2. On the facts and circumstances of the case and in law the Ld. CIT(A) erred in upholding the addition made by the AO of Rs.2,78,250/- in respect of interest paid on unsecured loans of the said 7 parties.*

*3. The appellant reserves its right to add, amend alter or delete any of the grounds of appeal.”*

2. The brief facts of the case are that, the assessee company is engaged in the business of manufacturing of garments and trading. The assessee has filed the return of income electronically for Asst.Year 2011-12 on 31.10.2011 disclosing a total income of Rs.69,21,280/- and the return of income was processed u/s143(1) of the Act. Subsequently, the case was selected for scrutiny under CASS and

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notice u/s 143(2) and 142(1) of the Act were issued. In compliance of the notice, the AR of the assessee appeared from time to time and submitted the details. The Assessing Officer (A.O.) on perusal of the financial statements found that the assessee has obtained the share capital, share premium and unsecured loan in the current year and the details were called with supporting documents. The assessee was required to produce details, confirmations, PAN, and the reasons for increase in the share capital, share premium and unsecured loans and the direct and indirect expenses connected. The assessee has filed the submissions on 14.03.2014 dealt at para 3.2 of the order. The Assessing Officer has discussed on the various aspects of evidences on the share capital and unsecured loans and relied on the judicial decisions. Finally the Assessing Officer has made addition as unexplained credits U/sec 68 of the Act towards share capital of Rs.28,00,000/- Share premium of Rs.6,72,00,000/, unsecured loan of Rs.3,12,35,608/. Additions in respect of share issue expenses of Rs.15,000/-, disallowance U/sec 40(a)(ia) of the Act Rs.8,75,000/- and disallowance of depreciation of Rs.1,37,546/- and assessed the total income of

Rs.11,30,04,121/- and passed the order u/sec143(3) of the Act dated 25-03-2014.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). whereas the CIT(A) has considered the grounds of appeal, findings of the assessing officer and the submissions of the assessee along with the documents in support of the claims. The CIT(A) has called for comments of the Assessing Officer. The Assessing officer in the remand proceedings has called for various details, clarifications and issued summons u/sec131 and notice u/sec 133(6) of the Act on the investors and loan creditors and statements were recorded. The Assessing officer has forwarded the remand report dated 24-09-2018. The CIT(A) considered the comments of the A.O. in the remand report and the assessee objections and is of the opinion that, since the assessee could not produce the parties nor the response was received and the notices could not be served has sustained the addition of unsecured loans in respect of 7 parties aggregating to Rs.29,00,000/- and granted relief in the other grounds of appeal and partly allowed the appeal.

Aggrieved by the CIT(A) order, the assessee has filed the appeal with the Honble Tribunal.

4. At the time of hearing, the Ld.AR of the assessee submitted that the CIT(A) has erred in sustaining addition of Unsecured loan creditors of Rs29,00,000/- overlooking the facts that the assessee has submitted the information of the seven parties in the remand proceedings on the identity, genuineness, and credit worthiness of the parties and the assessee could not produce the parties for confirmation due to non availability of persons at the address. The assessee has a good case on merits and is filing application for the admission of additional evidence and prayed to consider the additional evidence and allow the assessee appeal. Contra, the Ld. DR supported the order of the CIT(A) and submitted that the assessee has not complied with the directions of the AO & CIT(A) and the additional evidence should be rejected.

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed

issue as envisaged by the Ld. AR that the assessee for various reasons could not submit the information before the AO in the remand proceedings and in the appellate proceedings before the CIT(A) with the details of unsecured loan creditors. The assessee has filed an application for admission of additional evidence on the identity, genuineness and credit worthiness of the parties by way of ledger account copies, Annual report and Bank statements before the Honble Tribunal. The Ld. AR prayed that this additional evidence play a vital role in the decision making of the case and prayed for an opportunity to substantiate before the lower authorities. We considering the facts, circumstances, provisions of law and to meet the ends of justice shall provide one more opportunity to the assessee to substantiate with the evidences. Accordingly, we admit the additional evidence and restore the entire disputed issues to the file of the A.O. to verify and examine the material information and decide on merits. Further the interest on unsecured loan pertaining to above parties is consequential, and this disputed issue is also restored to the file of the Assessing Officer. The assessee should be provided the adequate opportunity of hearing and shall cooperate

in submitting the information. And the grounds of appeal of the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 07.07.2022

Sd/-  
(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER  
Mumbai, Dated 07.07.2022  
PK, Sps

Sd/-  
(PAVAN KUMAR GADALE)  
JUDICIAL MEMBER

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

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आदेशानुसार/ BY ORDER,

(Asst. Registrar)  
ITAT, Mumbai