

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

BEFORE SHRI PRASHANT MAHARSHI (ACCOUNTANT MEMBER) &
SMT. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 1768/MUM/2019 (A.Y.2013-14)

M/s Gagan Polycot India Ltd Gala No.2, Shiv Shankar Industrial Estate No.1, Waliv Phata, Village – Waliv, Vasai East, Palghar-401 607 PAN : AAACG8467G	vs	Dy.CIT, Circle-4, Thane Room No.2, B-Wing, Ashar I T Park Wagle Indl. Estate, Ambika Nagar Thane-400 602
APPELLANT		RESPONDENT

Assessee represented by	Shri Prateek Jha / Prayag Jha
Department represented by	Shri Hoshang B Irani – (DR)

Date of hearing	31/05/2022
Date of pronouncement	24/08/2022

ORDER

Per Kavitha Rajagopal (JM):

This appeal has been filed by the assessee as against the order of the Ld.Commissioner of Income-tax (Appeals)-3, Mumbai, dated 25/09/2017 passed under section 250 of the I.T. Act, 1961 pertaining to assessment year 2013-14.

2. It is observed that the assessee had filed the appeal with a delay of 477 days and has prayed that the delay may be condoned by citing the decision of Hon'ble Apex Court in Collector, Land Acquisition vs MST Kattiji (1987) 167 ITR 471 (SC). The assessee further stated that the company had sufficient cause for the delay in filing the appeal and had filed an affidavit reasoning the cause

for delay. The Ld.AR for the assessee contended that the delay in filing the appeal was not wanton and deliberate and that the assessee has, on merits, a good case.

3. The Ld.DR vehemently opposed the condoning the delay of 477 days in filing the appeal.

4. Having heard both the learned representatives and perused the materials on record, we deem it fit to condone the delay caused in filing the appeal and admit the appeal for adjudication.

5. The following are the grounds raised by the assessee:

“1. The Ld.CIT(A) erred in dismissing the assessee’s appeal without allowing reasonable opportunity of being heard.

2. The Ld.CIT(A) erred in sustaining the addition of Rs.20,05,000/- without appreciating that the Ld.AO had made addition of this amount under section 68 of the IT Act though provisions of this section were not attracted to the facts on this issue.

3. The Ld.CIT(A) erred in sustaining the addition of Rs.2,25,000/- without appreciating that the Ld AO had made this addition though the transaction was genuine and the amount was not claimed as deduction while computing profits and gains of business.

4. The appellant craves leave to furnish Additional Evidence which may be relevant to the above Grounds of Appeal in course of the appeal proceedings.”

6. The brief facts are that the assessee company is engaged in the business of manufacturing of plastic and surgical instruments and trading in plastic products and textiles. The assessee filed its return of income on 30/09/2013 declaring total income of Rs.44,43,550/-. The assessee’s case was selected for scrutiny and assessment order under section 143(3) dated 29/02/2016 was passed and addition of Rs.20,05,000/- as unexplained cash credit under section 68 of the Act and an addition of Rs.2,25,000/- on account of cash payment to M/s Parks Multi Trade Pvt Ltd was made by the Assessing Officer. The assessee

preferred appeal before the Ld.CIT(A), who confirmed the additions by way of an ex parte order. Aggrieved by the said order, the assessee is in appeal before us.

7. The Ld.AR contended that the Ld.CIT(A) has erred in confirming the additions made by the Assessing Officer and prayed that the matter may be remanded back to the Ld.CIT(A) for de novo adjudication.

8. The Ld.DR submitted that the assessee has not made compliances before the Ld.CIT(A) in spite of several opportunities provided.

9. Having heard both the learned representatives and perused the materials on record, we deem it fit to consider the contention of the assessee that the said additions made by the Assessing Officer does not come under the purview of the provisions of section 68 of the I.T. Act, 1961 and further contention that the alleged transaction on which the addition was made was genuine and that the assessee had not claimed the impugned amount as deduction while computing the profit and gains of business. On observing the facts of the case, we are inclined to give one last opportunity to the assessee to present its case before the Ld.CIT(A). The Ld.CIT(A) shall decide the appeal on merits, after issuing notice of hearing to the assessee within 90 days from the date of this order. Thus, the appeal is remanded to the Ld.CIT(A) with the above observation.

10. In the result, the appeal is allowed, for statistical purpose.

Order pronounced in the open Court on 24th August, 2022.

Sd/-

sd/-

(PRASHANT MAHARSHI)	(KAVITHA RAJAGOPAL)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Mumbai, Dated: 24/08/2022

Pavanan

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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai