

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A ' BENCH
MUMBAI
BEFORE SHRI BASKARAN B.R, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
ITA No. 917/MUM/2022
(Assessment Year: 2012-13)**

Asian Business Connections Pvt. Ltd. Fm-18 Mansarovar Complex No. 7 Shivaji nagar, Bhopal Madhya Pradesh - 462016	Vs.	Commissioner of Income Tax, Central Circle 5(3), Mumbai-400020
PAN No. AAICA1206D		
(Appellant)		(Respondent)

Appellant by	Shri. Rushabh Mehta & Ms. Aparna Sivakumar.AR
Respondent by	Shri. Manoj Sinha.DR

Date of Hearing	14.09.2022
Date of Pronouncement	21.09.2022

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of Commissioner of Income Tax Appeal -53 Mumbai (hereinafter in

short "CIT(A)") passed under Section 250 of the Income Tax Act 1961 (hereinafter in short "the Act").

2. At the time of hearing, the Ld.AR has submitted the application for condonation of delay of 10 days in filing the appeal before the Hon'ble Tribunal and explained that the filling was delayed and relied on the decision of Hon'ble Supreme Court in respect of extension of period of limitation. We find the registry has issued defect notice to the assessee mentioning the delay of 10 days in filling the appeal. On application of the ratio of decision of the Honble Supreme court in respect of extension of limitation period the delay can be condoned and the Ld.DR has no specific objections. Further we are satisfied with the reasonable cause explained for delay in filling the appeal and accordingly we condone the delay and admit the appeal.

The assessee has raised following grounds of appeal.

1. *(A) The Learned CIT(A) erred in facts and law in confirming the disallowance of purchases from M/s. bhagwati Trading Co. f ₹ 6,43,73,560/- under Section 69C of the Act without appreciating the explanation and evidences placed on record.*

(B) The Learned CIT(A) failed to appreciate that the addition has been made merely on the basis of vague information received fromj the Investigation in absence of any corroborative evidence or any incriminating material against the assessee.

(C) The Learned CIT(A) failed to appreciate that the Learned Assessing Office was not prevented from making further enquiry by issuing notice under Section 133(6) although the alleged party was not produced during the course of assessment proceedings.

(D) The Learned CIT(A) failed to appreciate that the provision of Section 69 C of the Act are not applicable in the year under consideration since it was only the payment discharged against the purchase made in the preceding year and consequently, also failed to point out under which other provision of law the impugned transaction is taxable and erroneously referred to section 294B of the Act.

(E) The Learned CIT(A) failed to appreciate that the impugned addition would increase the profit by 120% for the year under consideration which is absurd, unreasonable and absolutely impossible on the ground that the addition has been made on the basis of specific findings of the Assessing Officer and the investigation and thus, linking the addition to the profit by the assessee does not make any sense.

2. *Your appellant craves leave to add, amend, alter or drop all or any of the above grounds of appeal.*

3. The brief facts of the case are that, the assessee company is engaged in business of making strategic investments. The assessee has filed the return of income for the assessment year 2012-13 on 31.03.2013 disclosing a total income and the return of income was processed under 143(1) of the Act on 23.10.2013. The Assessing Officer(A.O.) has received information that the transactions undertaken by assessee with the M/s Ganapati Trading Company and M/s Bhagwati Trading Company were unexplained and during the investigation at Kolkata, these companies have failed to make

any submissions on the enquiries from the investigation wing and the assessee is one of the beneficiary. Therefore, the Assessing Officer has reason to believe that the income has escaped the Assessement and after recording the reasons for reopening of assessment has issued notice under Section 148 of the Act. In-compliance to notice, the assessee has filed the return of income on 18.04.2019. Subsequently, notice under Section 143(2) and 142(1) were issued. In respect of purchase transactions, the assessee has filed the ledger account disclosing the transactions entered and supported with the bank statement. The assessee has contended that these transactions are genuine and payments are through banking channels. But the Assessing Officer was not satisfied with the explanations and the genuineness of the purchase transactions of ₹ 6,43,73,560 and treated as non genuine and made disallowance under Section 69C of the Act and assessed the total income of ₹ 6,37,34,260 and passed the order under Section 143(3) r.w.s147 of the Act dated 30.12.2019.

4. Aggrieved by the order, the assessee has filed an appeal with the CIT(A) whereas the CIT(A) has considered the grounds of appeal, findings of the Assessing Officer and submissions of the assessee and finally has confirmed the action of Assessing Officer and dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Honble Tribunal.

5. At the time of hearing the Ld.AR submitted that the CIT(A) has erred in overlooking the factual aspects and information that there are no transactions of purchases with these parties in this financial year and only the payments are discharged and whereas these transactions have taken place in the earlier years. The Learned Authorized Representative substantiated the submissions with the paper book with the details of audited financial statements, copies of submissions and ledger accounts of the parties etc and prayed for allowing the appeal. Per Contra, the Ld.DR supported the order of CIT(A).

6. We heard the rival submissions and perused the material on record. The Learned Authorized Representative submitted that the CIT(A) has erred in confirming the action of Assessing Officer overlooking the material facts that the transactions are not in the current financial year. Further the assessee has transactions with these parties in the preceding/earlier years. Where as in the current year there is no Revenue from operations or purchases claimed. The contentions of the Ld.AR are that the Assessing Officer and CIT(A) has treated the purchase transactions pertain to current financial year but the assessee has transactions with these parties in the earlier year and demonstrated the Audited profit & loss account placed at page 18 of the paper book where the assessee has disclosed Revenue from operations at note 11 Rs. Nil. We find the submissions of the Learned Authorized Representative have not been verified by the authorities and these submissions goes to the

root of the issue. We considering the facts, circumstances and to meet ends of justice restore the disputed issue to the file of the Assessing Officer to adjudicate afresh considering the material evidence filed by the assessee and decide on merits. Further the assessee should be provided with the adequate opportunity of hearing and shall cooperate in submitting the information and allow the grounds of appeal of the assessee for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on the 21st day of September 2022.

Sd/-
(BASKARAN BR)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 21/09/2022
M. Sonavane

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.

M/s Asian Business Connections Pvt Ltd.

ITA.No.917/M/2022

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai