

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

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAHUL CHAUDHARY, JM

ITA No. 1209/MUM/2019

(Assessment Year 2012-13)

Fact Enterprise Ltd.
C-208, Crystal Plaza,
opp. Infinity mall,
Andheri (w),
Mumbai-400 054

(Appellant)

DCIT 8 (1)
Aayakar Bhavn, M.K.ROAD,
Mumbai-400 020

Vs.

(Respondent)

PAN No. AAACF0955A

Assessee by : None

Revenue by : Shri. Nishant Somiya SR AR

Date of hearing: 21.09.2022

Date of pronouncement : 21.09.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by assessee against the appellate order passed by the Commissioner of income tax (Appeals) – 16, Mumbai [the learned CIT (A)] dated 29th June, 2017 for A.Y. 2012–13, wherein the addition by the learned Assessing Officer of ₹ 46,710,000 under Section 68 of the Income-tax Act, 1961 (the Act) as unexplained cash credit is confirmed.
02. The assessee is aggrieved with that order and has preferred the solitary ground that addition confirmed by the learned CIT (A) is not justified.

03. The brief facts of the case show that assessee is a company engaged in the business of redevelopment of SRA projects and old societies. Assessee filed return of income on 23rd September, 2012, at a total income of ₹ 14,390/-. Necessary notices under Section 143 (2) of the Act were issued and served on the assessee. During the course of assessment proceedings, the learned Assessing Officer noted that assessee has unsecured loans amounting to ₹ 101,604,738/-. Assessee was asked to prove the creditworthiness and genuineness of the transactions along with the proof of identification of the creditors. Assessee merely submitted the loan confirmations without stating Permanent Account Number with respect to parties amounting to ₹ 46,710,000/-. The assessee was once again requested to furnish the information which was not complied with and therefore, the learned Assessing Officer passed assessment order under Section 143 (3) of the Act on 31st March, 2015 determining the total income of the assessee at ₹ 46,724,390/- against the returned income of ₹ 14,390/- making an addition as unexplained Cash credit of ₹ 46,710,000/-.
04. Assessee aggrieved with assessment order preferred an appeal before the learned CIT (A). The learned CIT (A) granted many opportunities and therefore, the learned CIT (A) confirmed the addition holding that assessee has not discharged its onus of proving the identity, creditworthiness of the parties as well as the genuineness



of the transaction. Accordingly, appeal of the assessee was dismissed.

05. Aggrieved assessee has preferred this appeal before us. Several opportunities were granted to the assessee. None appeared on behalf of the assessee neither request for adjournment was. In view of this, we do not have any other option but to dispose of the appeal of the assessee on the merits as per information available on record.
06. The learned Departmental Representative heavily relied on the orders of the lower authorities and submitted that when the assessee has failed to discharge its initial onus under Section 68 of the Act, the lower authorities have confirmed the addition.
07. We have carefully considered the contention raised by the learned Departmental Representative and perused the orders of the lower authorities. We find that with respect to four parties from whom assessee has taken loan of Rs 467,10,000/-, assessee could not discharge its initial onus of proving the identity and creditworthiness of those parties as well as the genuineness of the transactions. Therefore, as the sum was credited in the books of accounts during the year, the learned Assessing Officer made addition of the above sum under Section 68 of the Act. Before the learned CIT (A), nothing was produced and therefore the addition was confirmed. Thus, before the lower authorities only the confirmation without Permanent Account Number or any other information proving the identity, creditworthiness of those parties and genuineness



of deposit of money with the assessee were shown. As the assessee has failed to discharge its initial onus cast under Section 68 of the Act, we find no infirmity in the orders of the lower authorities in confirming the addition under Section 68 of the Act of ₹ 46,710,000/-. Accordingly, appeal of the assessee is dismissed.

Order pronounced in the open court on 21.09.2022.

Sd/-
(RAHUL CHAUDHARY)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 21.09.2022

Sudip Sarkar, Sr.PS/Dragon

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