

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

**BEFORE SHRI PRASHANT MAHARISHI, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 3360/Mum/2019
(Assessment Year: 2009-10)

ITO-12(3)(1) Room No. 147A, 1 st Floor, Aaykar Bhawan, M. K. Road, Mumbai-400 020	Vs.	M/s. Jaico Textiles Pvt. Ltd. 329, Sandesara House, Jawahar Nagar, Road No. 12, Goregaon (W), Mumbai-400 062
PAN/GIR No. AAACJ 3155 A		
(Appellant)	:	(Respondent)

Appellant by	:	None
Respondent by	:	Shri Vranda U. Matkarni

Date of Hearing	:	28.09.2022
Date of Pronouncement	:	20.12.2022

ORDER

Per Kavitha Rajagopal, J. M.:

This appeal has been filed by the Revenue, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short)-21, Mumbai, passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2009-10.

2. The brief facts are that the assessee has filed its return of income dated 08.09.2009, declaring total loss of Rs.25,332/-. The assessee's case was reopened u/s. 147 of the Act for the reason that the assessee has availed unsecured loan from M/s. Sulabhya Engineering Pvt. Ltd. and also for the scrutiny proceeding in A.Y. 2010-11, where additions were made on account of loans taken. The assessment order dated

27.03.2015 was passed by the A.O. u/s. 143(3) r.w.s. 147 of the Act, where the A.O. made an addition of Rs.6.26 crores u/s. 68 of the Act.

3. Aggrieved by this, the assessee was in appeal before the Id. CIT(A), as against the said addition who deleted the addition made u/s. 68 of the Act on the ground that the assessee has declared 'unsecured loan' amounting Rs.8,85,50,000/- in the balance sheet under the head 'unsecured loan' during the impugned year, which was not considered by the A.O.

4. The Id. CIT(A) further held that the assessee has proved the said fact by documentary evidences and that there was no fresh loans received during the year in order to attract section 68 of the Act. On this basis, the Id. CIT(A) deleted the addition made by the A.O.

5. The Revenue is in appeal before us, challenging the deletion of the addition by the Id. CIT(A).

6. The Id. Authorised Representative (AR for short) for the assessee contended that the assessee has not availed any fresh loan during the impugned year and that the loans and advances specified during the assessment proceedings were from unsecured loans availed during the A.Y. 2009-10 and that there were no fresh loans subsequent to that.

7. The Id. Departmental Representative (Id. DR for short) had nothing to controvert the same.

8. Having heard the Id. DR and perused the materials available on record. We are of the considered view that this issue has to be remanded back to the file of the A.O. to verify if there are any fresh loans received during the year by the assessee in order to make addition u/s. 68 of the Act. If there are no fresh loans availed by the assessee, then the order of the Id. CIT(A) deleting the addition made u/s. 68 will be upheld. For the limited purpose of verification of the fact whether any fresh loan was received during the year, we remand this issue back to the file of the A.O.

9. In the result, the appeal filed by the Revenue is allowed for statistical purpose.

Order pronounced in the open court on 20.12.2022.

Sd/-

Sd/-

(Prashant Maharishi)
Accountant Member

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated :
Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai