

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

**BEFORE SHRI KULDIP SINGH (JUDICIAL MEMBER)
AND
SHRI GAGAN GOYAL (ACCOUNTANT MEMBER)**

I.T.A No.2771/Mum/2019 - 2009-10

M/s Focal Trading Private Limited Shop No.7, Masjid Trust, Dr. B.A Ambedkar Road Byculla (East), Mumbai-400 027 PAN : AABCF2512J	vs	ITO 12(2)(2), Mumbai
APPELLANT		RESPONDENT

Assessee represented by	None
Department represented by	Vrunda U Matkari – Sr AR

Date of hearing	19/12/2022
Date of pronouncement	22/12/2022

O R D E R

Per: Kuldip Singh (JM):

Appellant, M/s M/s Focal Trading Private Limited (hereinafter referred to as 'the assessee'), by filing present appeal sought to set aside the impugned order passed by the Ld.Commissioner of Income-tax (Appeals)-20, Mumbai [hereinafter 'Ld.CIT(A)]dated 07/01/2019 on the ground interalia that –

“1. The learned CIT (A) has grossly erred both in law and on facts in confirming the order of assessment passed u/s 147/143(3) of the Act on 28.02.2019 determining the income of the appellant at Rs. 6,51,21,000/- as against the income returned at Rs. 1,21,000/-

2. The Learned CIT (A) has grossly erred both in law and on facts in failing to appreciate that initiation of the reassessment proceedings u/s 147 of the Act is without satisfying the statutory preconditions as envisaged u/s 147 of the Act, and hence initiation of the reassessment proceedings itself is bad in law.

3. The Learned CIT (A) has grossly erred both in law and on facts in failing to appreciate that learned AO has initiated the reassessment proceedings without having any tangible material for the formation of reasons to believe that the income of the assessee has escaped assessment, and hence assumption of jurisdiction is bad in law.

4. The Learned CIT (A) has grossly erred both in law and on facts in making addition of Rs. 6,50,00,000/- as unexplained investments u/s 69 of the Income Tax Act.

5. That the learned CIT(A) while making the addition u/s 69 of the Act has completely failed to comprehend that the confirmation dated 23.01.2010 given on the basis of loans and advances to Faith Finstock Pvt. Ltd. by account payee cheque and which was duly reflected in the books of account of the appellant as on 31.03.2009. There were no other transaction between assessee Company and Faith Finstock Pvt. Ltd. apart from the above.

6. The learned CIT(A) has erred in assuming that the transaction was paid by cash without having any valid proof.

7. The Learned CIT (A) has grossly erred both in law and on facts in failing to appreciate that under section 69 of the Act burden is on the revenue to establish that the assessee has made unexplained investment and hence addition made without discharging such burden is unsustainable in law

8. The learned CIT (A) erred in confirming the charging of interest u/s. 234B of the Income Tax Act, 1961.

9. The order passed by the learned CIT(A) is illegal, bad in law, ultra vires and contrary to the provisions of law and facts and is passed without application of mind and in violation of the principles of natural justice. ”

2. The present appeal was filed by the assessee challenging the impugned order passed by the Ld.CIT(A) on 03/05/2019. Thereafter numerous opportunities were granted and assessee put in appearance through Shri Hetal Laghave on

24/04/2021 and 30/12/2021, on which date counsel of the assessee sought adjournments which were granted. Thereafter none appeared on behalf of the assessee and the bench has decided to dispose of the present appeal on the basis of material available on record with the assistance of the Ld.DR for the Revenue as the assessee appears to be not interested in prosecuting the present appeal.

3. Without entering into the merits of the grounds raised by the assessee, the Bench remained unable to decipher as to against which of the assessment order as well as order passed by Ld.CIT(A), the assessee has come up before the Tribunal by way of filing present appeal. Assessee has annexed an order dated 07/01/2019 passed by CIT(A)-20, Mumbai, but the said order is passed in case of M/s Fair Engineering Pvt Ltd. Similarly, when we advert to the assessment order dated 30/03/2015, the same is also filed in case of M/s Fair Engineering Pvt Ltd, whereas the present appeal is concerning M/s Focal Trading Pvt Ltd, appellant, in this case. There is nothing on record if there is any merger or amalgamation between M/s Fair Engineering Pvt Ltd and M/s Focal Trading Pvt Ltd nor the assessee has come up despite availing numerous opportunities to assist the Bench to dispose off this appeal.

4. Even otherwise, when we refer to the grounds of appeal raised by the assessee in this case, assessment order challenged before the CIT(A) by the assessee is dated 28/02/2019, copy of which has not been brought on record nor the impugned order challenged before the Tribunal is there on the file.

5. In view of what has been discussed above, we are of the considered view that the assessee has filed the present appeal in a very casual and irresponsible manner, which is not otherwise maintainable in the present form. Consequently, appeal filed by the assessee is hereby dismissed.

6. In the result, appeal is dismissed.

Order pronounced in the open court on 22/12/2022

Sd/-

sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

(KULDIP SINGH)
JUDICIAL MEMBER

Mumbai, Dt : 22nd December, 2022

Pavanan

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

Asstt. Registrar / Senior Private Secretary
ITAT, Mumbai