

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

**BEFORE SHRI S. RIFAUR RAHMAN, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA Nos. 3013, 3014 & 3016/Mum/2022
(Assessment Years: 2011-12, 2012-13 & 2014-15)

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|---|-----|---------------------------------------|
| Palmon Exports Kasez 9, Janta Industrial Compound, 162, Senapati Bapat Marg, Lower Parel, Mumbai-400 013 | Vs. | Income Tax Officer-22(2)(1) Mumbai |
| PAN/GIR No. AAHFP 4369 G | | |
| (Appellant) | : | (Respondent) |
| Assessee by | : | Shri Himanshu Gandhi |
| Revenue by | : | Shri A. N. Bhalekar |
| Date of Hearing | : | 23.01.2023 |
| Date of Pronouncement | : | 24.01.2023 |

ORDER

Per Kavitha Rajagopal, J M:

The captioned appeals have been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Years ('A.Y.' for short) 2011-12, 2012-13 and 2014-15. It is observed that the said appeals are time barred by 15 days and after hearing both the sides, we hereby condone the delay as there was sufficient cause for the delay in filing the present appeals.

2. The assessee has challenged the grounds of reopening and the additions made by the Assessing Officer (A.O. for short) and confirmed by the Id. CIT(A) on the ground that

the assessee has declared low gross profit by obtaining bills from suspicious parties. The assessee has also challenged the grounds of interest charged u/s. 234B and 234C along with the other consequential grounds.

3. As the grounds of appeal are similar in all these appeals, we hereby pass a consolidated order in all the three appeals mentioned above by taking ITA No. 3013/Mum/2022 as the lead case.

4. The brief facts are that the assessee firm is into the business of dealing in garments, textiles, metal, computers, exports and imports. The assessee company filed its return of income dated 20.08.2011, declaring total income of Rs.4,01,427/- and the return was processed u/s. 143(1) of the Act and the assessee's case was reopened based on the information received from DGIT (Inv.), Mumbai based on the Sales Tax Departments investigation on VAT evaders, wherein it was found that the assessee was one of the beneficiary of accommodation bills from various hawala parties without actual delivery of goods. During the impugned year, it was observed that the assessee company had purchased from Gold Star Trading Company by way of bogus bills, amounting to Rs.1,20,55,013/-. The assessment order u/s. 143(3) of the Act r.w.s. 147 of the Act dated 17.10.2016 was passed by the A.O. by making addition, amounting to Rs.30,13,753/- as unexplained purchases @ 25% of the impugned purchase, amounting to Rs.1,20,53,013/- on account of gross profit.

5. The assessee was in appeal before the ld. CIT(A), challenging the assessment order dated 17.10.2016.

6. The Id. CIT(A) confirmed the addition made by the A.O. by way of an *ex parte* order on the ground that the assessee company has failed to furnish any material by way of documentary evidence in support of its claim.
7. Further aggrieved, the assessee is in appeal before us, challenging the *ex parte* order of the Id. CIT(A).
8. The learned Authorised Representative (Id. AR for short) for the assessee contended that the assessee was not given sufficient opportunity to present its case before the Id. CIT(A) and prayed for one more opportunity to present the assessee's case before the Id. CIT(A). The Id. AR further stated that the assessee has got substantial materials to substantiate its claim on merits.
9. The learned Departmental Representative (Id. DR for short) had nothing to controvert the same.
10. Having heard the rival submissions and perused the materials available on record, we deem it fit and proper to provide one last opportunity to the assessee to present its case before the Id. CIT(A). The assessee is directed to produce all the documentary evidences proposed to be filed before the Id. CIT(A) and the Id. CIT(A) may decide all these appeals on merits based on the submissions of the assessee. Hence, all these appeals filed by the assessee are remanded back to the file of the Id. CIT(A) for *de novo* adjudication.

11. In the result, all these appeals are allowed for statistical purpose.

Order pronounced in the open court on 24.01.2023

Sd/-

(S. Rifaur Rahman)
Accountant Member

Mumbai; Dated : 24.01.2023
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

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