

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI 'SMC' BENCH, MUMBAI.

Before Shri B.R. Baskaran (AM) & Shri Pavan Kumar Gadale (JM)

I.T.A. No. 500/Mum/2023 (A.Y. 2009-10)

Maharashtra Forge Fittings 46/48, 1 <sup>st</sup> Pathan Street 4 <sup>th</sup> Kumbharwada Mumbai-400 004.  PAN : AAMFM6696A (Appellant)	Vs.	ITO-19(2)(3) Matru Mandir Room No. 221 Tardeo Road Mumbai-400 007.  (Respondent)
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Assessee by	Ms. Rutuja Pawar Deswal
Department by	Ms. Naina K. Kumar
Date of Hearing	20.04.2023
Date of Pronouncement	20.04.2023

ORDER

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 23.12.2022 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2009-10. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition made by the Assessing Officer relating to alleged bogus purchases.

2. At the outset, w noticed that the Assessing Officer has reopened the assessment under section 148 of the Act on the basis of the information received from the investigation wing that the assessee has availed accommodation entries in the form of purchases from some of the dealers, who were identified by sales tax department of Maharashtra government as providing only accommodation bills, without actually supplying the material. The assessee had purchased aggregate amount of Rs. 33,25,518/- from the alleged accommodation bills providers. Since the assessee did not cooperate with the Assessing Officer, the Assessing Officer completed the assessment

under section 144 of the Act to the best of his judgment by making addition of entire bogus purchases of Rs. 33,25,518/-. The assessee challenged the same by filing appeal before the learned CIT(A). However, the assessee did not respond to the notices issued by the learned CIT(A) and hence he confirmed the above said addition. Aggrieved, the assessee has filed this appeal before the Tribunal.

3. The Learned counsel appearing for the assessee submitted that the assessee could not furnish relevant details before the Assessing Officer as well as before the learned CIT(A) for the reasons beyond control of the assessee. She further submitted that that the assessee has furnished all the details before the Tribunal in the form of additional evidences and prayed for admission of the same. The Learned AR further submitted that the Tribunal may grant relief on the basis of the additional evidences furnished now by the assessee.

4. The Learned DR, on the contrary, submitted that the assessee did not cooperate before the tax authorities and hence additional evidences furnished by the assessee should not be admitted and the order passed by Ld CIT(A) should be confirmed.

5. We have heard the rival contentions and perused the record. We noticed that the assessee did not appear before the tax authorities and did not furnish relevant details. It is the submission of learned AR that the assessee could not furnish relevant details on account of reasons beyond his control. The assessee has furnished certain details in the form of additional evidences before us. In our view, in the interest of natural justice, those evidences should be admitted. We also noticed that both the tax authorities have passed orders ex-parte. The additional evidences have also not been examined by the tax authorities. Accordingly, in the interest of natural justice, we are of the view that all the issues contested before us should be

restored to the file of the Assessing Officer for examining them afresh by duly considering the additional evidences, any other evidence or information and explanation that may be furnished by the assessee before him. Accordingly, we set aside the order passed by the learned CIT(A) and restore all the issues to the file Assessing Officer for examining them afresh as discussed above. We also direct the assessee to fully cooperate with the Assessing Officer.

6. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 20.4.2023.

Sd/-  
(PAVAN KUMAR GADALE)  
Judicial Member

Sd/-  
(B.R. BASKARAN)  
Accountant Member

Mumbai; Dated : 20/04/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(Judicial)
4. PCIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai