

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.132/Chny/2023
निर्धारण वर्ष/Assessment Year: 2018-19

M/s. CIGFIL Limited,
37, Armenian Street, Parrys,
Chennai 600 001.

Vs. The Additional/Joint/Deputy/Assistant
Commissioner of Income Tax/
Income Tax Officer, National Faceless
Assessment Centre, Delhi.

[PAN:AAACC3120C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri B. Ramakrishnan, FCA
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 06.04.2023
घोषणा की तारीख /Date of Pronouncement : 31.05.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi, dated 19.12.2022 relevant to the assessment year 2018-19.

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2018-19 on 21.10.2018 declaring total income of ₹. Nil (current year loss ₹.21,39,354/-) and the same was

processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short] on 05.11.2019. Subsequently, the case of the assessee was selected for scrutiny under CASS and notice under section 143(2) of the Act was issued on 23.09.2019. After following due procedure, the assessment was completed under section 143(3) r.w.s. 144B of the Act dated 14.09.2021. During the course of assessment proceedings, on verification of the details available on record, the Assessing Officer noted that during the year unsecured loan standing in the balance sheet of ₹.25,17,43,237/- and accordingly, notice under section 142(1) of the Act was issued. After various opportunities afforded, the assessee has submitted part details on 25.01.2021. Since full compliance was not given to the notice issued under section 142(1) of the Act on the issue of unsecured loan taken, the Assessing Officer again offered final opportunity to comply to the requirement of notice under section 142(1) of the Act dated 14.12.2020 and thereafter a show cause notice also issued to the assessee, wherein draft assessment order was forwarded proposing to make addition of ₹.7,19,42,691/- on account of unsecured loan transactions to the total income of the assessee under section 68 r.w.s. 115BBE of the Act. In response to the above, the assessee filed its submission. After considering the submissions of the assessee, the Assessing Officer has completed the assessment by assessing total

income of the assessee at ₹.8,20,11,881/- by making addition under section 68 of the Act at ₹.7,19,42,691/-. On appeal, since the assessee has not furnished any additional/further evidence during the course of appellate proceedings, the Id. CIT(A) upheld the addition made under section 68 of the Act.

3. On being aggrieved, the assessee is in appeal before the Tribunal. By filing petition for admission of the additional evidence under Rule 29 of the Income Tax (Appellate Proceeding) Rules, the Id. Counsel for the assessee has prayed for admission of the additional evidence.

4. On the other hand, the Id. DR has submitted that the additional evidence should not be admitted for the reason that various opportunities were afforded to the assessee by the authorities below and the assessee has not furnished the evidences either before the Assessing Officer or before the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, during the course of assessment proceedings, the Assessing Officer has noted that as per balance sheet, the unsecured loan stood at ₹.25,17,43,237/- and called for the assessee to prove the genuineness of

the loan taken. Since the assessee has not furnished complete details/evidence to substantiate the creditworthiness and genuineness of the transactions made with the said loan parties, the Assessing Officer treated the unsecured loan of ₹.7,19,42,691/- as unexplained income of the assessee under section 68 of the Act and brought to tax. Since the assessee has not furnished any additional evidence, the Id. CIT(A) confirmed the addition made under section 68 of the Act.

6. Before the Tribunal, the assessee has submitted a petition for admission of additional evidence under Rule 29 of the Income Tax (Appellate Proceeding) Rules by filing various confirmation letters, ITR to substantiate its claim, which was not furnished before the authorities below. Since the assessee has filed some crucial documents, we are of the considered opinion that the Assessing Officer is required to examine the additional evidence filed before the Tribunal. Accordingly, we set aside the orders of authorities below and remit the matter back to the file of the Assessing Officer to examine the additional evidences furnished before the Tribunal and decide the issue afresh in accordance with law by affording an opportunity of being heard to the assessee. The assessee is also directed to furnish complete details before the Assessing Officer to substantiate the creditworthiness and genuineness of the transaction

made with the loan parties.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 31st May, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 31.05.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.