

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHIR PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 565/Mum/2023
(A.Y: 2014-15)

Sasa Engineering Works B-16, Sangli Vaibhav Chs, Natwar Nagar, RoadNo.5,Jogeshwari(E), Mumbai-400060	Vs.	ITO, Ward 31(3)(3) Mumbai.
PAN/GIR No. : AAZFS3429C		
Appellant	..	Respondent

Appellant by :	Shri Ajay Singh.AR
Respondent by :	Smt. Jayashree Thakur.DR

Date of Hearing	26.04.2023
Date of Pronouncement	27.04.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of National Faceless Appeal Centre (NFAC), Delhi / CIT(A) passed u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. That on the facts and in the circumstances of the case, Ld. CIT(A) erred in deciding the appeal ex-parte without appreciating that the notice was issued on the portal and on the email id - jain.nirmalca@gmail.com (erstwhile Chartered Accountant)Further, due to dispute amongst the partners the same remained unattended*

2. That on the facts and in the circumstances of the case, Ld. CIT(A) erred in deciding the appeal ex-parte without providing reasonable, adequate and effective opportunities of hearing to the appellant.

3. That on the facts and in the circumstances of the case, Ld. CIT(A) erred in confirming the action of the Ld. Assessing Officer in making an addition of Rs. 15,06,762/- w/s. 68 of the Income Tax Act, 1961, as unexplained unsecured loans without considering the fact that the loan given to the firm are from the related parties of the partner of the firm.

4. On the facts and in the circumstances of the case, Ld. Assessing Officer and Ld. CIT(A) has erred in not granting the opportunity to produce evidence in respect of the unsecured loan to the parties.

2. The brief facts of the case are that the assessee is partnership firm engaged in the business of machining labour job work. The assessee has filed the return of income for the A.Y 2014-15 on 30.03.2015 disclosing a total loss of Rs.2,63,302/-. Subsequently the case was selected for scrutiny and notice u/s 143(2) and 142(1) of the Act was issued. In compliance, the Ld. AR of the assessee appeared from time to time and submitted the details. The AO on perusal of the information found that the assessee has obtained unsecured loan from three parties aggregating to Rs.15,06,762/-.The assessee was asked

to submit the details in respect of unsecured loans and further the AO has issued show cause notice. Since no information was submitted by the assessee in respect of unsecured loans obtained, the AO has made addition of unsecured loans of Rs.15,06,762/-and assessed the total income of Rs.12,43,460/-and passed the order u/s 143(3) of the Act dated 25.12.2016.

3. Aggrieved by the order the assessee has filed an appeal with the CIT(A). The CIT(A) has considered the grounds of appeal, findings of the AO and there was no compliance to notices and hence confirmed the action of the AO and dismissed the assessee appeal. Aggrieved by the CIT(A)order, the assessee has filed an appeal before the Honble Tribunal.

4. At the time of hearing the Ld. AR submitted that the CIT(A) has erred in confirming the addition by the AO overlooking the information filed in the assessment proceedings. Further the Ld.AR submitted that the assessee has a good case on merits and has filed an application for admission of the additional evidence under Rule 29 of ITAT rules. Per contra, the Ld.DR submitted that the loan transactions evidences were

are not examined by the lower authorities and the Ld. DR supported the order of the CIT(A).

5. Heard the rival submissions and perused the material on record. The sole crux of the disputed issue that the CIT(A) has erred in confirming the addition by the A.O. as the transactions are not supported with the documentary evidences. And there was no compliance to the notices. The Ld.AR emphasized that the assessee has submitted the some details in the assesement proceedings. The assessee is filling the application for admission of additional evidences under Rule 29 of ITAT rules with the Loan confirmations, Bank statements, and Pan details which were not available earlier and could not produce before the lower authorities. Further the evidences play important role in decision making in the adjudicating proceedings. Therefore considering the facts, circumstances and additional evidences the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making and admit the additional evidence. Accordingly, to meet the ends of justice, set aside the order of the CIT(A) and restore the entire disputed issue along with

the additional evidence to the file of the assessing officer to decide afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information and the grounds of appeal of the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 27.04.2023

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 27.04.2023

KRK, PS

Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER,

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