

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1360/PUN/2018
निर्धारण वर्ष / Assessment Year : 2013-14

Adarsh Automobiles, 46/3, Pune Nagar Road, Wadgaon Sheri, Pune. PAN : AABFA8949F	Vs.	ITO, Ward-7(3), Pune.
Appellant		Respondent

Assessee by : Shri Abhay Avchat
Revenue by : Smt. Sonal Sonkavde

Date of hearing : 22.08.2023
Date of pronouncement : 25.08.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals)-8, Pune [‘the CIT(A)’] dated 18.05.2018 for the assessment year 2013-14.

2. Briefly, the facts of the case are that the appellant is a partnership firm deriving income from dealing in Petrol and Diesel.

The Return of Income for the assessment year 2013-14 was filed on

26.09.2013 declaring total income of Rs.7,30,139/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-7(3), Pune ('the Assessing Officer') vide order dated 15.01.2016 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at a total income of Rs.18,47,270/-. While doing so, the Assessing Officer made addition on account of outstanding loan of Rs.10,00,000/- received from M/s. Rajat Construction, as the appellant had failed to prove the genuineness, creditworthiness and identity of the said creditors despite giving several opportunities.

3. Being aggrieved by the above order of assessment, an appeal was filed before the Id. CIT(A) contending that the security deposits were received during the financial year 2007-08 i.e. relevant to the assessment year 2008-09 and, therefore, cannot be brought to tax. However, the Id. CIT(A) upheld the order of the Assessing Officer by holding that the appellant had failed to discharge the onus lying upon it to prove the genuineness, creditworthiness and identity of the creditors.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. It is submitted before me that the security deposits were received from M/s Rajat Construction during the financial year 2007-08. In support of this, the appellant filed the ledger extract as well as copy of the bank statement, wherein, the said deposits were reflected. Thus, ld. AR submits that the Assessing Officer cannot go into the genuineness of the transactions during the year under consideration. The addition, if any, required to be made, it can be only made for the assessment year 2009-10, not for the year under consideration i.e. assessment year 2013-14.

6. On the other hand, ld. Sr. DR vehemently opposing the submissions of the assessee submits that no interference by this Tribunal is required, as the appellant had failed to discharge the onus lying upon it to prove the genuineness of the transactions.

7. I heard the rival submissions and perused the material on record. The issue in the present appeal relates to the addition of unsecured loan of Rs.10,00,000/- received from M/s. Rajat

Construction. Admittedly, during the course of assessment proceedings, the appellant had not discharged the onus lying upon it to prove the genuineness, creditworthiness and identity of the credit showing in the name of M/s. Rajat Construction. However, during the course of proceedings before the Id. CIT(A), it was submitted that the appellant received a security deposit from M/s Rajat Construction during the financial year 2007-08 i.e. relevant to the assessment year 2009-10. In support of this, the Id. AR also filed the copies of the bank statement, wherein, entries in respect of receipt of money from M/s. Rajat Construction were reflected. He also filed the copies of ledger extract of the said M/s. Rajat Construction as appearing in the books of the appellant firm. It is well settled position of law that the addition in respect of credit appearing in the books of accounts can only be made in the year in which the credit appears in the books of accounts of the assessee for the first time. Since this issue was not examined either by the Assessing Officer or by the Id. CIT(A), I am of the considered opinion that in the interests of justice, matter may be remanded to

the file of the Id. CIT(A) to adjudicate the issue in appeal afresh in the light of the submissions made before him by the assessee that the cash was received during the previous year relevant to the assessment year 2009-10. Accordingly, the matter is remanded to the file of the Id. CIT(A) for fresh adjudication. Thus, the grounds of appeal filed by the assessee stand partly allowed.

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 25th day of August, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 25th August, 2023.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-8, Pune.
4. The Pr. CIT-4, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.