

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

ITA No. 2687/Mum/2023

(A.Y: 2011-12)

Mudraa Holdings Pvt Ltd A/306 Bachubhai Bldg, 187 D.N.Road Fort, GPO, Mumbai-400001.	Vs.	ITO Ward 2(2)(3), Aayakar Bhavan Mumbai-400002.
PAN/GIR No. : AAECM4498H		
Appellant	..	Respondent

Assessee by :	None
Revenue by :	Shri G.J. Ninawe. Sr. DR

Date of Hearing	30.10.2023
Date of Pronouncement	31.10.2023

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre, Delhi / CIT(A) passed u/s 143(3) r.w.s 147 and 250 of the Ac. The assessee has raised the following grounds of appeal:

- 1. On the facts & in the circumstances of the case and in law the Hon'ble CIT (A) erred in passing an ex parte order without considering number of submission filed before the then jurisdictional CIT (A) & passing the order without providing sufficient opportunity to explain the facts of the case and the reasons assigned for doing so are wrong and contrary to the provisions of Income Tax and rules made there under.*

2. *On the facts & in the NIL circumstances of the case and in law, the Hon'ble CIT (A) erred in not considering the submission made before the appellate authorities during pre-faceless period the copy of which was available with them and the reasons assigned for doing so are wrong and contrary to the provisions of Income Tax and rules made there under.*

3. *On the facts and in the Rs6,34,500/- circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding addition of Rs. 21,15,000/- made by the Ld AO to the returned income u/s. 68 of the IT Act 1961 by treating genuine loan as in genuine and the reasons assigned for doing so are wrong and contrary to the Provisions of Income Tax Act and rules made there under.*

4. *On the facts and the 7,95,000/- in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding an addition of Rs. 26,50,000/- to the returned income u/s. 69 of the IT Act 1961 on account of failure to prove genuineness of transaction and want of relevant explanation and the reasons assigned for doing so are wrong and contrary to the Provisions of Income Tax Act and rules made there under.*

5. *On the facts NIL and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the penalty initiated by the Ld. AO u/s. 271(1)(c) of the IT Act 1961 and the reason assigned for doing so are wrong and contrary to the provision of Income Tax Act and rules made there under.*

6. *Your Appellant crave, leave to add, alter, amend or modify any or all grounds of appeal on or before the date of hearing.*

2. The brief facts of the case that, the assessee company is engaged in the business of trading and merchant exporter.

The assessee has filed the return of income in compliance to notice U/sec148 of the Act disclosing a total income of Rs. Nil. Subsequently notice u/s 143(2) and 142(1) of the Act are issued. Whereas the Assessing Officer (AO) found that the assessee has advanced loan to M/s Himalaya Thinner Industries to the extent of Rs. 29,50,000/- and in the balance sheet of the assessee Rs.3,00,000/- is reflecting outstanding loan against the M/s Himalaya Thinners Industries Ltd. The AO has called for the explanations and clarifications and dealt on the various factual aspects with respect to the claim of advances and notice u/s 133(6) of the Act was issued. Whereas the AO found that the assessee could not explain the genuineness of the transaction and made an addition u/sec 69A of the Act of Rs.26,50,000/- and similarly in respect of cash deposits of Rs.21,50,000/- in the bank account as per the AIR information, the assessee was called to explain the sources of deposits and there was no satisfactory explanations and hence the A.O has invoked the provisions of Sec. 68 of the Act and treated Rs. 21,15,000/- as unexplained cash credits and finally assessed the total income of Rs.47,65,000/- and passed the order u/s 143(3) r.w.s 147 of the Act dated 13.12.2018.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. Heard the Ld. DR submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing on 30-09-2019,10-10-2019,17-10-2019,28-10-2019,02-12-2019,28-12-2020 &19-04-2023 referred at Page 2 Para 4 of the order, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised

grounds of appeal challenging the additions of the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the principles of natural justice shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the appeal. Accordingly, allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 31.10.2023.

Sd/-  
(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Mumbai, Dated 31.10.2023

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,

सत्यापित प्रति //True Copy//

1.

( Asst. Registrar)  
ITAT, Mumbai