

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI V. DURGA RAO, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.692/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2015-16)

Sri Mahasakthi Mills Pvt. Limited 95/13, Vyshnav Building, Race Course Road, Coimbatore -641 018.	बनम / Vs.	DCIT Central Circle-1, Coimbatore.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No.	AABCS-2111-C	
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri Venkata Raman (CA)- Ld.AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri AR.V. Sreenivasan (Addl.CIT)- Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	08-11-2023
घोषणा की तारीख / Date of Pronouncement	:	29-11-2023

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2015-16 arises out of the order of learned Commissioner of Income Tax (Appeals)-16, Chennai [CIT(A)] dated 09-01-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143 of the Act on 31-12-2017. The grounds taken by the assessee read as under:

1. That the Ld.CIT(A) is not justified in confirming the action of the Assessing Officer in treating the cash deposits of Rs.2,98,31,000/- made in the bank accounts representing cash receipts from the parties towards sales as unexplained cash credit u/s.68 of the Act.

2. That the Ld.CIT(A) failed to appreciate that the provisions of section 68 of the Act are not applicable to the facts and circumstances of the case of the appellant and consequently erred in sustaining the addition of Rs.2,98,31,000/- made by the Assessing Officer u/s.68 of the Act.

As is evident, the sole grievance of the assessee is confirmation of certain addition u/s 68 of the Act.

2. The Registry has noted delay of 79 days in the appeal, the condonation of which has been sought by the assessee on the strength of an affidavit of the director of the assessee company. It has been submitted that the delay was neither intentional nor due to negligence but due to the fact that Managing Director was travelling continuously which led to delay in filing the appeal. The Ld. Sr. DR opposed the condonation of delay. However, considering the period of delay and the contents of affidavit, we condone the delay and admit the appeal for adjudication on merits.

3. The Ld. AR assailed the impugned addition by drawing our attention to the ledger extracts of sundry debtors and other financial documents as placed on record. Reliance has been placed on the recent decision of this Tribunal in the case of **M/s Sri Arumuga Cottspin Pvt. Ltd. (ITA Nos.381/Chny/2023 & ors. order dated 01-11-2023)** a copy of which has been placed on record. It has been submitted that the impugned additions, on identical facts, has been deleted by the Tribunal. The Ld. Sr. DR sought distinction in the case law and supported the assessment framed by Ld. AO. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Assessment Proceedings

4.1 The assessee being resident corporate assessee is stated to be engaged in manufacturing of cotton yarn. The case for this year was selected for limited scrutiny to examine the issues of mismatch in sales turnover, large difference in opening and closing stock, low income and cash deposited by the assessee in certain bank accounts. However, no additions have been made by Ld. AO on first three counts. The addition has been made for cash deposited by the assessee for Rs.298.31 Lacs in three bank accounts held by it.

4.2 The assessee submitted that it collected amount of Rs.559.50 Lacs from various parties towards sale of yarn and fabric. The collections from debtors were utilized to make deposit in the bank accounts. The assessee also provided the list of parties from whom the cash was stated to have been received by it. To confirm the same, confirmatory letters were sent by Ld. AO to these parties. However, no reply was received in majority of cases and most of the letters returned back unserved. The replies were received only in 4 cases. On the basis of said exercise, Ld. AO concluded that assessee's unaccounted money was deposited in the bank account and accordingly, the deposit of Rs.298.31 Lacs was added in the hands of the assessee u/s 68 as unexplained cash credit.

Appellate proceedings

5. During appellate proceedings, the assessee assailed the impugned addition, inter-alia, on the ground that its business was being conducted mainly through the brokers and it was the broker who played a vital role in conducting sales as well as ensuring collection from the customers. The same was evident by the fact that a survey was conducted in the

case of the assessee on 23.03.2017 wherein summon were issued to the assessee's broker Shri Senthil Kumar and his statement was recorded. Shri Senthil Kumar explained clearly his role as a broker to conduct the sales. The assessee submitted that these amounts were, in fact, realization from debtors. The business was conducted through brokers and Ld. AO did not appreciate the business model of the assessee. However, not convinced, Ld. CIT(A) upheld the additions against which the assessee is in further appeal before us.

Our findings and Adjudication

6. From the facts, it emerges that the parties from whom cash has been collected by the assessee against sale are sundry debtors of the assessee. The list of all these debtors (55 in nos.) and their respective ledgers extract have been placed on page nos. 119 to 178 of the paper book. Upon perusal of the same, it could be seen that all these are running accounts. The assessee has made sales to these parties and realized the payment through banking channels as well as through cash. In few cases, opening balances have been realized during this year. Many of the parties are having opening and closing ledger balances. In such a case, merely on the basis of outcome of confirmatory letters, the said receipts could not be treated as the income of the assessee. The sales or quantitative details of stock are not in doubt since no additions have been made by Ld. AO on these issues. We find that all the ledgers are running ledgers which are duly reflected in the audited financial statements. The realization from the debtors has duly been recorded in the cash book which is placed on page nos. 25 to 118 of the paper-book. The cash balance available with the assessee has been deposited in

various bank accounts held by the assessee. No defect in books of accounts has been alleged by Ld. AO. The assessee has realized cash collection for Rs.559.50 Lacs from debtors out of which only a part of the collection has been doubted by Ld. AO without any logic or basis. The outcome of the confirmatory letter was to be understood in the background of the business model of the assessee. Undisputedly, assessee's business was being conducted through the brokers who play vital role in concluding sales and ensuring realization from the debtors. The same would explain the fact the few of the debtors would not have direct dealing with the assessee. Therefore, we are of the considered opinion that impugned addition is not sustainable in law. The cited case law of Tribunal in on same set of facts and duly supports the case of the assessee wherein the bench has deleted the additions on identical facts and on same reasoning. Therefore, we delete the impugned addition and allow the appeal of the assessee.

7. The appeal stand allowed.

Order pronounced on 29th November,2023

Sd/-
(V. DURGA RAO)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखासदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated :29-11-2023
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्था/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF