

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 700/Ahd/2023
Assessment Year 2012-13**

Shivazza Tile Pvt. Ltd., Ahmedabad PAN: AANCS3940F (Appellant)	Vs	The Income Tax Officer, Ward-4(1)(1), Pratyaksha Kar Bhavan Ahmedabad (Respondent)
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Assessee by: Shri Sunil Talati, A.R.

Revenue by: Ms. Saumya Pandey Jain, Sr. D.R.

Date of hearing : 19-12-2023

Date of pronouncement : 05-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 20-07-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2012-13.

2. The grounds of appeal are as under:-

"1. The Ld. CIT(A) has erred in confirming the addition made by the Ld. AO Rs. 23,45,000/-. It is submitted that the said addition so sustained is totally unjustified and illegal both on facts and law and the same is prayed to be deleted.

2. Without prejudice to the above, it is submitted that the Ld. CIT(A) has upheld the addition made by Ld. AO of Rs. 23,45,000/- as unexplained credit ignoring the submissions filed by appellant during course of assessment proceedings. Based on said documentary evidences, Ld. CIT(A) ought to have deleted the impugned addition. The same be held now.

3. Without prejudice to the above, it is submitted that due to circumstances beyond control, attributable to business and personal reasons of the appellant company's Director, appellant company was prevented to make timely compliance in response to opportunity granted by Ld. CIT(A). It is therefore prayed that opportunity of being heard be provided to appellant company to present the facts before Ld. CIT(A).

4. The order passed by the Ld. CIT(A) is bad in law and is contrary to the provisions of law and facts. It is submitted that the same be held now. "

3. The assessee filed return of income for assessment year 2012-13 on 14-09-2012 declaring total income at Rs. 9,40,040/-. The return of income was processed u/s. 143(1) of the Act. No scrutiny assessment u/s. 143(3) of the Act has been completed. As per information received from Deputy Director of Income Tax, Unit-1(2), Ahmedabad, an investigation was carried out in the case of Umiya Industries who is engaged in the business of manufacturer of pump sets. Shri Alpeshkumar Vitthalbhai Patel is a proprietor. During the investigation, he admitted that all three proprietary concerns namely Umiya Industries, Perfect Steel Corporation

and Bhoomi Traders are engaged in providing accommodation entries and that there is no underlying business motive behind these debits and credits in their respective bank accounts from the Umiya Industries of Rs. 23,45,000/-. The Assessing Officer observed after verifying the bank accounts of Umiya Industries maintaining in Dhanlaxmi Bank Ltd. there is two debit entries found on 02-03-2021 of Rs. 10,00,000/- and other one on 09-03-2021 of Rs. 13,45,000/- in the name of Shivazza Tiles Pvt. Ltd. the total amount of Rs. 23,45,000/- in the account of assessee. The assessment was reopened u/s. 147 of the Income Tax Act, 1961 by issuing notice u/s. 148 of the Act on 30-03-2019 after recording reasons. In response of the notice u/s. 148 of the Act, the assessee furnished the return of income on 03-05-2019 declaring total income at Rs. 9,40,040/-. After issuing statutory notices and serving upon the assessee, the assessee filed reply along with copy of ledger account of Umiya Industries as well as invoice copies and bank statements showing credit entries. The assessee stated that these are genuine transactions of sales made by Umiya Industries in financial year 2011-12. After taking cognizance of the reply, the Assessing Officer observed that credit entry found in the bank scrutiny of the assessee of Rs. 23,45,000/- is nothing but accommodation entries and treated the same as unexplained credit u/s. 68 of the Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that during the period March 2021 to June, 2023 various unfortunate circumstances happened with the assessee and therefore could not be able to replying or submitting the explanations/submissions to CIT(A) and did not realize the consequences. The CIT(A) though issued several notices but the assessee was not represented properly therefore the ld. A.R. requested that the matter may be remanded back to the file of CIT(A) for proper adjudication of the issues contested therein as the order of the CIT(A) is ex-parte.

6. Ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant materials available on record. Under the peculiar circumstances, the assessee could not appear before the CIT(A) for which the assessee has filed detailed affidavit along with medical certificate and the 138 proceedings before the Senior Civil Judge/Court. In the interest of justice, it will be appropriate to remand back this matter to the file of CIT(A) for

proper adjudication of the issues contested therein. Needless to say, assessee be given opportunity of hearing by following the principles of natural justice.

8. In the result, the appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 05-01-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 05/01/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद