

IN THE INCOME TAX APPELLATE TRIBUNAL

"D" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA no.3461/Mum./2023

(Assessment Year : 2012-13)

Darshan Finvest Private Limited
B-502, Mota Mansion, 4th Cross Road
Lokhandwala, Andheri (West)
Mumbai 400 053 PAN – AAACD3733G

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Circle-9(3)(1), Mumbai

..... Respondent

Assessee by : Ms. Shruti Mandore

Revenue by : Smt. Mahita Nair

Date of Hearing – 06/02/2023

Date of Order – 08/02/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 28/07/2023, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2012-13.

2. In its appeal, the assessee has raised the following grounds:-

"The following grounds of appeal are without prejudice to one another.

1. On the facts and circumstance of the case and in law the Id. CIT(A) erred in not providing adequate opportunity of being heard to the appellant, for the reasons mentioned in the impugned order or otherwise.

2. On the facts and circumstance of the case and in law the Id.CIT(A) erred in confirming the action of the Id. AO in making an addition of an ad-hoc amount of Rs. 1,02,15,006/- being 15% of the total alleged sales turnover amounting to Rs. 6,81,00,038/- as per the grounds mentioned in the impugned order or otherwise.

3. The Appellant craves leaves to alter, amend, withdraw or substitute any ground or grounds or to add any new ground or grounds of appeal on or before the hearing.

The appellant prays this Hon'ble Tribunal to delete the addition/disallowance made by the Id.AO, which is confirmed by the Id. CIT (A)."

3. The brief facts of the case, as emanating from the records available before us, are: For the year under consideration, the assessee has not filed its return of income under the provisions of section 139 of the Act. Based on the information, as appearing in ITS details and on a perusal of AIR data incorporated in ITS, it was observed that the assessee, during the year under consideration, has entered into share transaction of Rs.27,55,35,368, and acquired bonds/debentures of Rs.25 lakh. Accordingly, proceedings under section 147 of the Act were initiated and notice under section 148 of the Act was issued on 20/03/2019. During the proceedings under section 147 of the Act, for further verification of the shares/bonds/debentures transactions reflected in ITS / AIR data, notices under section 133(6) of the Act were issued to the Brokers as the name of the said Brokers were reflected in the assessee's Indian Bank account statements. However, one of the brokers was not found at the given address, while the other was informed to be not existing at the address shown in the ITS details. During the assessment proceedings, the assessee was asked to furnish the full details with respect to the shares/bonds/debentures transactions made by the assessee during the year under consideration along with computation of income and financials, Balance Sheet, P&L A/c, etc. In response thereto, the assessee made its submissions, vide letter dated 28/12/2019, on the basis of the AIR report furnished by the Assessing Officer ("A.O."). Upon perusal of the submissions made by the assessee, the A.O. noted that the same has been prepared based on AIR information/data and based on the closing stock of the assessee shown in the return of income filed for the assessment year 2011-12. The A.O. further observed that the assessee has failed to file its return of income for the

assessment year 2012-13 and has also not filed any details/documents/statements related to F.Y. relevant to A.Y. 2012-13. Further, it was noted that the assessee has not submitted P&L A/c, Balance Sheet, and computation of its income. Even the assessee has not filed the Bank details or documents supporting the share transactions i.e., contract notes, ledger of brokers, etc., for the year under consideration. The A.O., vide order dated 24/12/2019, passed under section 144 r/w section 147 of the Act computed the sale turnover on the basis of AIR data, after reducing the duplicate entries, at Rs.6,81,00,038. Since the assessee did not furnish the aforesaid documents/information, the A.O. computed the income of the assessee on an estimate basis @ Rs.1,02,15,006, being 15% of the total sale turnover of Rs.6,81,00,038.

4. In the appeal before the learned CIT(A), the assessee challenged the addition made by the A.O. on an *ad-hoc* basis. However, the assessee failed to respond to various notices issued by the learned CIT(A). Accordingly, the learned CIT(A) dismissed the appeal filed by the assessee, vide *ex-parte* order, in the absence of any material contrary to the findings of the A.O. Being aggrieved, the assessee is in appeal before us.

5. We have considered the submissions of both sides and perused the material available on record. It is evident from the record that during the assessment proceedings, the assessee neither filed its return of income nor filed any details/documents/P&L A/c/Balance Sheet/computation of income relating to the year under consideration. Accordingly, the A.O. proceeded to compute the total income of the assessee on an estimate basis as per the AIR data. Further before the learned CIT(A), the assessee neither furnished any information/documents nor made any submissions to controvert the findings of the A.O. Now in the appeal before us, the assessee is duly represented by the learned A.R. and wishes to pursue the litigation against the addition made by the A.O. Therefore, in view of the above, we are of the considered opinion that in the interest of justice, one more opportunity be granted to the assessee to represent its case and, therefore, the matter is restored to the file of the jurisdictional A.O. for *de novo* adjudication. The assessee is directed to furnish

all the information/documents in support of its claim before the A.O. Further, the assessee is also directed to respond to the notices as may be issued by the A.O without any default and furnish the information as sought by the A.O. With these directions, the impugned order is set aside and the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 08/02/2024

Sd/-
PRASHANT MAHARISHI
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 08/02/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai