

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"G" BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no.2066/Mum./2022**

(Assessment Year : 2013-14)

Savla Buildwell LLP  
D/6, Surjit Sangam Chawl  
Mathuradas Road, Kandivali (West)  
Mumbai 400 067 PAN – ABSFS9884P

..... Appellant

v/s

Income Tax Officer  
Ward-33(3)(3), Mumbai

..... Respondent

Assessee by : Shri Prateek Jain  
Revenue by : Shri Manoj Kumar Singh

Date of Hearing – 20/02/2024

Date of Order – 22/02/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 13/06/2022, 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 2013-14.

2. The present appeal has been listed for hearing before us pursuant to the order dated 15/01/2021, passed by the Co-ordinate Bench of the Tribunal in Savla Buildwell LLP. v/s ITO, M.A.no.633/Mum./2023 (in ITA no.2066/Mum./2022, for the assessment year 2013-14), whereby, the earlier order dated 09/05/2023, passed under section 254(1) of the Act was recalled and the appeal was directed to be re-fixed for hearing.

3. In the larger interest of justice, the slight delay of 5 days in filing the appeal by the assessee is condoned.

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

*"GROUNDS OF APPEAL*

*The CIT (Appeals) has merely agreed with findings of the Assessment Officer and not applied his judgement.*

*The CIT (Appeal) fails to appreciate the fact that the party is a Private Limited Company registered under the Companies Act, which itself proves its identity and the said Company is active on the MCA portal and filed its audited financial accounts upto 31.03.2017.*

*The CIT (Appeal) has failed to appreciate that, the assessee firm has repaid the entire amount of Rs.75 lacs in the subsequent financial years.*

*The CIT (Appeal) has failed to appreciate the fact that, the entire transaction of receipt and repayment of unsecured loan by the assessee firm with the said party has been made through the RTGS system of banking.*

*The CIT (Appeal) erred in not treating the documents like loan confirmation, income tax acknowledgment, banks statements of the said party submitted for the purpose of identity, creditworthiness and genuineness of the transaction."*

5. The brief facts of the case are that the assessee firm is a Limited Liability Partnership firm and is engaged in the business of builder and developers. For the year under consideration, the assessee filed its return of income on 31/08/2012 declaring a total loss of Rs. 3,76,162. The return filed by the assessee was processed under section 143(1) of the Act. Subsequently, on the basis of the information received from DGIT (Investigation), Mumbai that the assessee is one of the beneficiaries of accommodation entries for unsecured loan, proceedings under section 147 of the Act were initiated and notice under section 148 of the Act was issued on 27/03/2017. Upon verification of the details furnished during the assessment proceedings, it was observed that the assessee has taken an unsecured loan to the tune of Rs. 75 lakh from M/s Rajat Diamonds, one of the concerns managed/operated by Mr. Gautam Jain, who is an entry provider of bogus purchases and for unsecured loans. Accordingly, the assessee was asked to show cause as to why the amount of loan taken of Rs. 75 lakh from M/s Rajat

Diamonds be not disallowed and added as unaccounted cash credit under section 68 of the Act. In response thereto, the assessee submitted that the loan taken from M/s Rajat Diamonds was taken for managing the working capital requirement of the business. It was further submitted that the principal amount of the loan has been repaid in the subsequent years. The Assessing Officer ("AO") vide order dated 30/10/2017 passed under section 143(3) read with section 147 of the Act did not agree with the submissions of the assessee and held that the assessee is one of the beneficiaries who has taken accommodation entries for unsecured loans from M/s Rajat Diamonds, one of the concerns of Mr. Gautam Jain. The AO further held that the payment through the banking channel does not give certification to the assessee that the transactions are true and genuine. Accordingly, the AO held that the assessee has failed to discharge its onus to prove the genuineness of the transaction and considered the loan of Rs. 75 lakh as unexplained cash credit under section 68 of the Act.

6. In the appeal before the learned CIT(A), despite notices being issued, no reply/submission was filed on behalf of the assessee. Accordingly, vide impugned ex-parte order dated 13/06/2023, the learned CIT(A) dismissed the appeal filed by the assessee. Being aggrieved, the assessee is in appeal before us.

7. We have considered the submissions of both sides and perused the material available on record. It is evident that the learned CIT(A) has passed the order ex-parte due to the non-appearance of/on behalf of the assessee. Now in appeal before us, the assessee is duly represented by the learned Authorised Representative ("*learned AR*") and wishes to pursue the litigation against the addition made by the AO. The learned AR furnished the affidavit of the partner of the firm, wherein it has been stated that he is looking after the overall administration of the firm's activity and he did not receive any e-mail communication or notice of hearing from the learned CIT(A) on the e-mail ID mentioned in Form 35. Therefore, in view of the above, we are of the considered opinion that in the interest of justice, the assessee be hereby granted one more opportunity to represent its case on merits before the

learned CIT(A). Consequently, we deem it fit and proper to restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits after consideration of all the details/submissions as may be filed by the assessee. Needless to mention no order shall be passed without affording reasonable opportunity of hearing to the parties. Further, the learned CIT(A) is directed to issue the hearing notice(s) on the email ID, i.e. pssavla06@gmail.com, which is mentioned as the email ID for communication in both Form 36 as well as Form 35, unless at a subsequent stage, the assessee wishes to change its email ID for the purpose of communication of hearing notice, for which the assessee is directed to intimate the learned CIT(A) in advance. Thus, the assessee is directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for adjudication on merits, the other grievances raised by the assessee in the present appeal do not call for adjudication at this stage. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 22/02/2024

**Sd/-**  
**OM PRAKASH KANT**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 22/02/2024**

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

By Order

Assistant Registrar  
ITAT, Mumbai