



2. The facts relating to the case are discussed in brief. The assessee filed its return of income for Assessment Year 2010-11 on 13/10/2010 declaring a total income of Rs.11,32,710/-. The same was processed u/s. 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). Subsequently, it came to the notice of Investigation Department that the assessee is maintaining two bank accounts with Federal Bank, wherein deposits by way of credit entries aggregating to Rs.24.18 cores were found to have been made. Based on the aforesaid information, the Assessing Officer reopened the assessment for Assessment Year 2010-11 by issuing notice u/s. 148 of the Act. Before the Assessing Officer the assessee furnished details regarding credit entries in the form of party wise sales made to and receipts of money from the customers.

3.The Assessing Officer took cognizance of following two parties. According to AO, the assessee has received business advances over and above the sales amount due from them.

| Sr.No. | Name of the party    | Nature of transaction | Amount Received |
|--------|----------------------|-----------------------|-----------------|
| 1      | Twenty First Century | Business Advance      | 6,34,79,282/-   |
| 2      | I.S. Traders         | Business Advance      | 5,13,364/-      |
| Total  |                      |                       | 6,39,92,646/-   |

The Assessing Officer asked for details about the above cited receipts. The assessee filed some reply. The Assessing Officer also issued notices u/s. 133(6) of the Act to the aforesaid two parties, but they did not respond to the same. Further, as per field enquiry conducted by the Inspector, the address of aforesaid parties were not traceable. Accordingly, the Assessing Officer assessed the above said sum of Rs.6,39,92,646/- as unexplained credit in the hands of the assessee. The Id. CIT(A) also confirmed the same and hence, the assessee has filed this appeal before us.

4. The Id.A.R submitted that the AO has presumed that the assessee has received cash credits from the above said two parties, which is contrary to the facts available on record. Inviting our attention to pages 11 and 12 of the paper books, wherein copies of Ledger Accounts of M/s. I.S. Traders and M/s. Twenty First Century Wire Ropes Ltd. are placed, the Id.AR submitted that the assessee had made payments to these parties and also had effected sales to them earlier. Hence these parties owed money to the assessee and they have only paid the same. Accordingly, the Ld A.R submitted that the amount received from these parties actually represented return of the amount paid to them earlier and also collection of sales amounts and not any fresh cash credit as presumed by the AO. Accordingly, the Id.AR submitted that the Assessing Officer could not have made the impugned addition as the amounts received from these parties stand duly explained by the books of accounts. The Id.AR further submitted that the aforesaid Ledger Accounts maintained by the assessee have also been confirmed by the respective parties by affixing their respective signatures. He also submitted that one of the parties M/s. Twenty First Century Wire Ropes Ltd. is located at Delhi and hence it is not clear as to how the Inspector in Mumbai could have given report that the address of above said party is not traceable. He also submitted that M/s.Twenty First Century Wire Ropes Ltd. is a listed company and hence the report of the Inspector is not reliable at all. Accordingly, he submitted that the Assessing Officer has made impugned addition on erroneous facts.

5. The Id. Departmental Representative, on the contrary, submitted that the Ld A.R is submitting altogether new explanations, while such kind of explanations were not furnished before the tax authorities. Accordingly, he

submitted that the new explanations given by the Ld A.R require examination at the end of the AO.

6. We have heard the rival contentions and perused the record. The Ledger Accounts copies of both parties are placed at pages 11 and 12 of the paper bookfurnished by the assessee. A perusal of the same would show that the assessee has made payments initially and also effected sales to these parties. Thereafter, the assessee has received payments from them towards collection of earlier payments/sales. It is not clear as to whether this explanation was offered to AO or not. We noticed that the AO has made the impugned addition as unexplained cash credit, while it is the case of the assessee that it was not cash credit as presumed by the AO. Thus, we notice that the facts surrounding this issue has not been explained by the assessee properly and it appears that the AO has also not examined correct facts. Under these circumstances, we are of the view that this issue requires fresh examination at the end of Assessing Officer. Accordingly, we set aside the order passed by Id. CIT(A) and restore the issue relating to the addition made by Assessing Officer to the file of Assessing Officer for conducting fresh examination by duly considering the information and explanations that may be furnished by the assessee. We also direct the assessee to furnish all information and explanations before the Assessing Officer and fully co-operate with him for expeditious completion of the assessment. After affording adequate opportunity of hearing to the assessee, the Assessing Officer may take appropriate decision in accordance with law.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 17 April, 2024.

Sd/-

[Justice (Retd) C V Bhadang]  
President

Mumbai, Date : 17 April, 2024

VM.

Sd/-

(B.R. Baskaran)  
Accountant Member

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "B" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai