

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.1659/M/2024  
Assessment Year: 2017-18**

M/s. Super Label Manufacturing LLP C- 307, Bhaveshwar Plaza, Off. LBS Road, Ghatkopar West, Mumbai- 400086 <b>PAN: ADCFS2304Q</b>	Vs.	ACIT Circle 27(3) Room No. 423, 4 <sup>th</sup> Floor, Tower No. 6, Vashi Railway Station, Commercial Complex, Vashi- 400703, Navi Mumbai.
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Jayesh Dedia, C.A.  
Revenue by : Dr. Kishor Dhule, CIT D.R.

Date of Hearing : 25 . 04 . 2024  
Date of Pronouncement : 30 . 04 . 2024

**O R D E R**

**Per: Ratnesh Nandan Sahay, Accountant Member:**

1. This appeal has been filed by the appellant against the order of the Ld. CIT Appeal passed u/s. 250 of the Income Tax Act [the 'Act' in short] vide Order No. ITBA/NFAC/S/250/2023-24/1062706368 dated 15/03/2024 for the assessment year 2017-18.
2. Following grounds of appeal have been raised:

- “1. The order of the Ld. Commissioner of Income Tax (Appeals) made under section 250 of the Income Tax Act dated 15.3.2024 is bad in law and on the facts of the case as the Ld. Commissioner of Income Tax (Appeals) has not considered written submission of the your Petitioners and no reasonable opportunity given.*
- 2. The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts of the case in confirming the exparte order of the Assessing Officer without considering the Remand Report of the Assessing Officer. The action is bad in law and against the Provisions of the Act.*
- 3. The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts of the case in confirming the action of the Assessing Officer in making an addition of Rs. 1,20,92,224/- under section 69A of the Income Tax Act. The action is unjustified and unwarranted as the same has already been considered by your Petitioner's Tax Return filed under PAN AACFS3540H.*
- 4. The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts of the case in confirming the action of the Assessing Officer in making an addition of Rs.33,90,10,681/- under section 68 of the Income Tax Act. The action is unjustified and unwarranted as the same issue has already been considered by the Assessing Officer in finalizing the assessment of your Petitioner's Tax Return filed under PAN AACFS3540H for the same assessment year.*
- 5. The Ld. Commissioner of Income Tax (Appeals) has erred in law and on the facts of the case in confirming the action of the Assessing Officer in making the assessment of your Petitioners*

*under PAN ADCFS2304Q as the same issues have been considered by the Assessing Officer in the case of your Petitioners while completing the assessment under PAN AACFS3540H. The action is bad in law and amounts to double taxation.*

*6. The Ld. Commissioner of Income Tax (Appeals has erred in law and on the facts of the case in not considering the subsequent orders under PAN ADCFS2304Q for the assessment years 2019-20 and 2020-21 where the reassessment proceedings initiated under PAN ADCFS2304Q were dropped in view of the fact that similar proceedings has already been completed under PAN AACFS3540H.*

*7. Your petitioner craves leave to add, amend, alter and/or withdraw the aforesaid grounds of appeal.”*

3. As per the statement of facts, M/s. Super Label Manufacturing LLP was created on 22/6/2016 on conversion of existing partnership firm i.e. M/s. Super Label Manufacturing Company. According to the assessee, this fact was already communicated to the Assessing officer (the AO in short) vide letter dated 27/7/2019. Since, under the income tax law a partnership firm and a LLP are considered to be the same, the PAN of partnership firm was continued and the return of income of the LLP for the assessment year 2017-18 was filed under existing PAN AACFS3540H. It was further contended by the assessee that due to oversight, the assessee LLP also applied for a new PAN and allotted PAN ADCF52304Q. Subsequently, the assessee LLP informed the assessing officer that

assessment may kindly be made under existing PAN AACFS3540H. Since the returns of income of the assessee LLP have always been filed up-to-date under the existing PAN AACFS3540H, the AO also accepted the request of the assessee and accordingly completed the assessment u/s. 143(3) of the IT Act for the assessment year 2017-18 on PAN No. AACFS3540H.

4. Later on the assessee LLP surrendered PAN-ADCFS2304Q vide letters dated 7.9.2021 and 26.10.2021. Thus, so far the Assessee LLP is concerned; the assessment for A.Y 2017-18 was completed and the transactions recorded in the bank account have been considered.
5. In the meantime, the Department has also started reassessment proceedings in the name of Assessee under different PAN ADCFS2304Q. But the assessee was neither aware of such proceedings nor had received any notice under section 147 or 143(3) or 144 of the Act. The assessee came to know about this when it received a letter dated 19.9.2022 through mail regarding outstanding demand. The assessee immediately approached the Assessing Officer's office and searched the Income Tax portal under PAN ADCFS2304Q and the assessee was shocked to see the order dated 28.3.2022 passed under section 147 read with section 144 and 144B of the Income Tax Act. It was found that the Assessing Officer had made additions of Rs.33,90,10,681/- under section 68 of the Act and addition of Rs.1,20,92,224/- under section 69A of the Income Tax Act.

6. According to the appellant, these additions were already considered while passing the assessment under PAN- AACF53540H and were duly accepted by the appellant and paid taxes as it had already offered this amount under amnesty scheme and this was considered by the AO while passing the assessment order for assessment year 2017-18 under PAN- AACFS3540H.
7. Thus, it is the grievance of the appellant that since these amounts were already considered in the hands of the appellant in one of the assessment order under PAN- AACFS3540H, the addition of the same amounts to double taxation and thus, the addition deserves to be quashed.
8. When the matter reached in appeal, the Ld. CIT Appeal vide its order no. ITBA/NFAC/S/250/2023-24/1062706368 dated 15/03/2024 confirmed both the addition made by the assessing officer u/s. 69A of the IT Act amounting to Rs.1,20,92,224/- and u/s. 68 of the Act amounting to Rs.33,90,10,681/- on the ground that the assessee could not explain the source of the deposits made in the undisclosed bank account and has also failed to establish the genuineness of the transactions.
9. During the course of hearing before us, it was submitted by the appellant that the Ld. CIT Appeal did not consider the submissions made by the assessee and reasonable opportunity of being heard was also not given to the appellant and order was passed ex-parte.

10. We have carefully considered the grounds of appeal raised by the appellant and also the oral submissions made before us. It appears that this is a case of two assessment orders passed for same assessment year 2017-18. One passed under the PAN- AACFS3540H and another under PAN-ADCFS2304Q. passed vide order no. ITBA/AST/S/143(3)/2019-20/1022759741(1) dated 20/12/2019
11. The Ld. CIT DR, on the other hand, submitted that the cash was deposited in an undisclosed bank account during the demonetization period and the assessee has failed to establish the source of the deposits made in the said bank account. According to him, the appellant in the garb of having two PANs, is trying to mislead the department that it is a case of double addition of the same amount.
12. After careful consideration of all aspects involved in this case, we find that the Ld. CIT Appeal has not considered the cash deposits and credit entries made in the back account. Therefore the issue is remanded to the file of the Ld. CIT Appeal to consider these deposits and decide the issue on merit by providing sufficient opportunity of being heard to the assessee to explain the source of the said deposits.
13. In the result, the appeal is allowed for statistical purpose.

**Order pronounced in the open court on 30.04.2024.**

**Sd/-**  
**(NARENDER KUMAR CHOUDHRY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(RATNESH NANDAN SAHAY)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 30.04.2024.

*Snehal C. Ayare, Stenographer*

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.