

IN THE INCOME TAX APPELLATE TRIBUNAL, "F" BENCH
MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

I T A. No. 646/MUM/2024
(A.Y. 2014-15)

Supeema Cottons Pvt Ltd 302, Royal Avenue, Dr. Viegas Street, Kalbadevi, Mumbai-400002.	Vs .	DCIT, Circle-4(3)(2), 6 th Floor, Aayakar Bhavan, M.K..Road. Mumbai-400020.
PAN/GIR No. AAJCS8875M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri.Lavanya Rajpurihot.AR
Revenue by	Ms.Rajeshwari Menon.Sr.DR

सुनवाई की तारीख/Date of Hearing	28.05.2024
घोषणा की तारीख/Date of Pronouncement	29.05.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre,(NFAC) Delhi/ (CIT(A) passed u/sec143(3) and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

1) 1) *On the facts and in circumstances of the case and in law, the CIT(A) NFAC (CIT(A)) has erred in passing the impugned intimation order without appreciating the written submissions made before CIT(A) 9 physically. The impugned order cannot be therefore unjust and unfair. Kindly quash it.*

2) *On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO of treating*

sum of total of receipts side of genuine loans taken and repaid from various parties during the year as unexplained cash credit and adding it to the income of the appellant by ignoring the facts and evidences of the case. This act of the AO is arbitrary, untenable and illegal. It may kindly be deleted.

3) On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO of disallowing the total interest expense of Rs. 1054249 paid by the appellant. The act of the AO is arbitrary, untenable and unlawful. It may please be quashed.

4) On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO of adding amount received as insurance claim to the income of the appellant without understanding the transaction and without appreciating the facts of the case.

5) On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO of disallowing Rs. 20788/- paid as weaving charges by claiming it to be excess payment of commission.

6) On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO of disallowing transportation charges and octroi paid without understanding the explanation to the transaction This act of the AO to deliberately ignore explanations and evidences offered is mischievous and untenable.

7) On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO in adding the amount of discount received from Bellflower Trading Co. Pvt. Ltd. out of processing charges to the appellant's income without properly appreciating the facts of the case.

8) On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO in making addition of Rs. 56579/- as excess weaving charges paid to Nawabali Abdul Latif Siddique and Warisali Banduali Ansari.

9) *On the facts and in the circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO of making addition of Rs. 14981865/- being amount of transactions with 7 parties for non compliance / service of notice u/s 133(6).*

10) *Your appellant therefore prays that the impugned order passed by the first appellate authority without considering the submissions made by us and confirming the order of the AO passed without application of mind may kindly be quashed and all the additions / disallowances made may kindly be deleted.*

11) *On the facts and in circumstances of the case and in law, the CIT(A) has erred in confirming the act of the AO of passing an order without giving the appellant an opportunity of being heard. Orders passed in violation of principles of natural justice are illegal and void.*

12) *Your appellant craves leave to add to, amend, alter, modify and/or delete any of the above grounds or to add any new grounds thereto and grant all consequential reliefs in relation to the grounds raised above..*

2. The Brief facts of the case are that, the assessee company is engaged in the business of manufacturer & wholesaler of cloth & salvar suits. The assessee has filed the return of income for the A.Y 2014-15 on 30.09.2014 disclosing a total income of Rs.46,57,980/-. Subsequently the case was selected for scrutiny under the CASS and notice u/sec 143(2) and u/sec 142(1) of the Act was issued. In compliance to the notice, the Ld. AR of the assessee appeared from time to time and submitted the details. The Assessing Officer(AO) on perusal of the financial statements found that the assessee has obtained unsecured loans from 38 loan creditors/entities aggregating to Rs.7,67,60,100/- referred at Para 4 of the assessment order. Further the AO has issued notice u/sec

142(1) of the Act on 05.04.2016 to furnish the details of unsecured loans/deposits obtained during the years and squared up of loans along with ledger copy extract and the confirmations of the lenders. In compliance to the notice, the assessee has filed the letter dated 16.11.2016 along with ledger confirmations. But the AO was not satisfied with explanations and required the assessee to substantiate the identity, creditworthiness and genuineness of the loan transactions. Whereas the AO based on the partial details/ information filed observed that the assessee could not substantiate the ingredients required u/sec 68 of the Act in respect of the identity, creditworthiness and genuineness of the loan transactions and made the addition of unexplained credits of Rs. 7,67,60,100/-. Similarly the AO has disallowed interest on unsecured loans paid of Rs.10,54,249/-.The third disputed issue, the AO found that the assessee claim deduction on account of loss due to fire and the AO has called for the information and the reasons were explained and the claims made from the insurance companies. Whereas the assessee could not substantiate with complete details therefore the AO has made addition of Rs.19,75,821/-.

3.The fourth disputed issue, the AO on perusal of details of weaving charges incurred found that the assessee has paid excess weaving charges of Rs. 20,788/- and the same was disallowed. The fifth disputed issue, the AO found that the assessee has debited Rs.41,49,916/- towards the

transport charges and on verification of details, the A.O identified that the assessee could not substantiate the claim to the extent of Rs. 93,208/- and was disallowed. The Last disputed issue, the AO has called for the details of unsecured creditors for goods and the AO has issued notice u/sec 133(6) of the Act on the parties referred at Para 9 of the assessment order. Whereas most of the notices were returned un served and in some cases notices were received by the creditors but no reply was submitted. Finally the AO has issued show cause notice to the assessee and was not satisfied with the information and made addition of the unsecured creditors of goods including other claims aggregating to Rs.1,51,67,559/- and assessed the total income of Rs.9,97,29,710/- and passed the order u/sec 143(3) of the Act dated 30.12.2016.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices except seeking adjournment once.. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing

officer overlooking the information/details of the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld.DR supported the order of the CIT(A).

6. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing on 29.01.2021, 01.11.2022, 23.02.2023, 25.07.2023, 28.08.2023 & 26.09.2023 referred at Page 3 Para 4 of the order but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions made by the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside

the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 29.05.2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 29/05/2024

KRK.PS

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,

Mumbai