

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

ITA. No. 141/MUM/2024
(A.Y.2017-18)

Friends Corporation, Windfall, 405, Sahar Plaza Complex, Andheri Kurla Road, JB Nagar, Andheri East, Mumbai-400059.	Vs .	NFAC, Delhi New Delhi-110001.
PAN/GIR No. AA EFF3413E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri Piyush Chaturvedi.AR
Revenue by	Ms. Rajeshwari Menon. Sr. DR

सुनवाई की तारीख/Date of Hearing	21.05.2024
घोषणा की तारीख/Date of Pronouncement	28.05.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre, Delhi /CIT(A) passed u/sec 143(3) and u/sec 250 of the Act. The Assessee has raised the following grounds of appeal:-

1) The Ld. CIT(A) has erred in confirming the addition of unsecured loan from borrowers of INR 8,11,13,339/- as income n ex parte basis.

The Ld. CIT(A) ought to have held that the addition of unsecured loan by AO to the book profit of the assessee are unsustainable and deserves to be deleted.

2. The appellant craves leaves to add, alter or delete all or any of the grounds of appeal.

2. The Brief facts of the case are that, the assessee is a partnership firm and is engaged in trading of Agro commodities, Cattle/poultry feeds, Animal feeds, freight forwarding & Logistics and ancillary activities. The assessee has filed the return of income for the A.Y 2017-18 on 12.10.2017 disclosing a total income of Rs.20,39,340/- Subsequently the case was selected for scrutiny and notice u/sec 143(2) and U/sec 142(1) of the Act along with questionnaire was issued. In compliance to the notice the assessee has submitted the details electronically from time to time. The Assessing Officer (AO) on perusal of the information and the details submitted in assessment proceedings found that the assessee has disclosed the unsecured loans received during the F.Y 2016-17 and the assessee was asked to furnish the details. Further the AO in order to verify the genuineness of the loans transactions has issued notice u/s 133(6) of the Act and no reply was received. The AO considering the facts has issued show cause notice dated 22.12.2019 referred at Para 5 of the assessment order. The AO was not satisfied with the explanations and information and since only one unsecured loan creditor has responded to the notice u/s

133(6) of the Act and others have not replied. Further the assessee has not substantiated the identity, genuineness and creditworthiness of the loan transactions. Finally the AO has made addition of unexplained credits U/sec68 of the Act of Rs. 8,11,13,339/- and assessed the total income of Rs. 8,31,52,680/- and passed the order u/sec 143(3) of the Act dated 27.12.2019.

3. 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. 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.

4. 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 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).

5. 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 03.03.2020, 30.01.2021 & 08.12.2023 referred at Page 5 Para 5 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 addition u/sec 68 of the Act 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.

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

Order pronounced in the open court on 28.05.2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 28/05/2024

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