

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

**BEFORE JUSTICE (RETD.) C V BHADANG, HON'BLE PRESIDENT &
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

**ITA NO.2910/MUM/2023
Assessment Year 2012-13**

Sriman Stocks Managements Private Limited,
302-B, Garden Court, Temba Hospital Road,
Bhayander (W),
Thane – 401 101
PAN:AANCS-3834-N

- Appellant

Vs.

ITO WARD 2(1),Thane,
B Wing, Room No.26, 6th Floor,
Ashar IT Park, Road 16Z,
Wagle Industrial Estate,
Thane – 400 604.

- Respondent

Appellant by : Shri Ridisha Jain

Respondent by : Shri Suresh D. Gaikwad, Sr.AR

Date of Hearing : 16/05/2024

Date of Pronouncement : 16/05/2024

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER :

The assessee has filed this appeal challenging the order dated 21/06/2023 passed by ld.CIT(A),NFAC, Delhi and it relates to the assessment year 2012-13.

2. At the outset, we notice that the ld.CIT(A) was constrained to pass an ex-parte order since the assessee did not respond to various notices issued by CIT(A). We also notice that the ld.CIT(A) has not adjudicated the issues on merits and has dismissed the appeal of assessee in-limine.

3. The Id.A.R. appearing on for the assessee submitted that the Assessing Officer has made addition u/s. 68 of the Act in respect of cash credits. The Id.A.R submitted that the assessee had taken loans, in most cases in the earlier year. During the year under consideration, the said loans have only been repaid. However, the Assessing Officer has added the repayment of loans as unexplained cash credit u/s. 68 of the Act, which is not legally correct. Accordingly, the Id. AR submitted that the assessee is having strong case and hence it may be provided with one more opportunity to present its case properly before Id.CIT(A). However, with regard to failure on the part of the assessee to respond to the notices issued by Id.CIT(A), the Id.A.R could not give convincing reasons.

4. We have heard Id. Departmental Representative and perused the record. We noticed earlier that the Ld.CIT(A) did not adjudicate the issues urged by the assessee before him. It is the submission of Id.A.R that there is a strong prima-facie case in favour of the assessee. Hence, we are of the view that this appeal may be restored to his file for adjudicating the issues on merits. However, since the assessee did not properly explain the reasons for not responding to the notices issued by Ld CIT(A), we are of the view that the assessee should be a cost in order to make him understand the seriousness of the income tax proceedings. Accordingly, we impose a cost of Rs.5,000/- (Rupees Five Thousand) upon the assessee, which shall be paid to the credit of Income Tax Department as 'other fees' within two months from the date of receipt of this order.

5. Subject to payment of above cost, which shall be verified by the Id.CIT(A), the order passed by Id.CIT(A) is set aside and all the issues are restored to his file for adjudicating them on merits. We also direct the assessee to fully co-operate with the Id.CIT(A) for expeditious disposal of the appeal.

6. In the result, appeal filed by the assessee is treated as allowed.

Order pronounced in the open court on 16th May, 2024.

Sd/-

[Justice (Retd) C V Bhadang]
President

Mumbai, Date : 16th May, 2024

VM.

Copy to :

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

Sd/-

(B.R. Baskaran)
Accountant Member

By Order

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