

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

I T A. Nos. 776, 777 & 778/MUM/2024
(A.Y.2014-15, 2015-16 & 2016-17)

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| Jagdamba Textiles Pvt Ltd 601, Kakad Market, 306, kalbadevi Road, kalbadevi, Mumbai-400002. | Vs . | ACIT-4(2)(1), Aayakar Bhavan, M.K.Road, Mumbai-400020. |
| PAN/GIR No. AABCJ1996Q | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| Assessee by | Shri.Rajesh Shah.AR |
| Revenue by | Ms.Rajeshwari Menon.Sr.DR |

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| सुनवाई की तारीख/Date of Hearing | 29.05.2024 |
| घोषणा की तारीख/Date of Pronouncement | 30.05.2024 |

ORDER

PER PAVAN KUMAR GADALE, JM:

These are the appeals filed by the assessee against the separate orders of the National Faceless Appeal Centre, Delhi / (CIT(A) passed u/sec 143(3) and u/sec 250 of the Act.

2. Since issues involved in these appeals are common and identical, hence they are clubbed, heard and a consolidated order is passed. For the sake of convenience, we shall take up ITA No.776/Mum/2024, A.Y 2014-15 as

lead case and facts narrated. The assessee has raised the following grounds of appeal:

1. a) *On the facts and circumstances of the case, CIT(A) erred in passing an ex-parte order by dismissing the appeal for delay in filing of an appeal without going in to merits of the case.*

b) *The CIT(A) ought to have considered the reasons for non-appearance and ought to have given at least one physical notice to the appellant to file submission before CIT(A).*

c) *The appellant submits that natural justice may be provided to the appellant to present its case.*

2. a) *On the facts and circumstances of the case and in law, the order of CIT(A) may be set aside to give natural justice to the appellant.*

b) *The appellant submits that it had reasonable cause for non-appearance.*

3. a) *On the facts and circumstances of the case, CIT(A) erred in dismissing the appeal without considering the merits of the case.*

b) *The appellant submits that it had reasonable cause for non-appearance before the CIT(A).*

c) *The appellant submits that the appeal may be set aside and the appellant may be allowed to submit the submission and evidences in respect of addition made.*

4 a) *On the facts and circumstances of the case, CIT(A) erred in wrongly confirmed the addition in respect of loans taken of Rs. 1,92,39,659 by treating the same as bogus by dismissing the appeal for non-appearance and without considering the merits of the case and deciding on merit.*

b) *The appellant had filed all the details during the assessment proceedings which could have been called by the CIT(A) from the AO and considered the same.*

5 a) On the facts and circumstances of the case, CIT(A) erred in wrongly confirmed the addition in respect of interest on loan taken of Rs.26,10,184 by treating the same as bogus by dismissing the appeal for non- appearance and without deciding on merit.

b) The appellant had filed all the details during the assessment proceedings which could have been called by the CIT(A) from the AO and considered the same.

6. The appellant craves leave to add, amend, modify, cancel and or substitute any of the grounds of the appeal..

3. The brief facts of the case are that, the assessee company is engaged in the business of manufacturing and trading of textiles. The assessee has filed the return of income for the A.Y 2014-15 on 30.09.2014 disclosing a total income of Rs.32,07,240/-. Subsequently, the case was selected for scrutiny under CASS and notice u/sec 143(2) and u/sec 142(1) of the Act along with questionnaire are issued. In compliance to the notice, the Ld.AR of the assessee appeared from time to time and submitted the details and the case was discussed. The Assessing Officer (AO) on perusal of the financial statements found that the assessee has obtained unsecured loans from various parties. The AO has relied on the information of the DDIT (Inv), Kolkata that the unsecured loans obtained from the companies/entities are not genuine and the loan transactions are doubtful. The AO considered theses facts and has issued notice to the assessee to substantiate the identity, genuineness and

creditworthiness of the loan transactions and the assessee has also paid the interest on unsecured loans. Whereas the AO has dealt on the details at Para 3.1 to 3.5 of the order and finally concluded that the assessee could not substantiate the identity, genuineness and creditworthiness of the loan transactions and made addition of unsecured loans along with the interest aggregating to Rs.2,18,49,843/- and assessed the total income of Rs.2,50,57,090/- and passed the order u/sec 143(3) and 250 of the Act dated 29.12.2016.

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. 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 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 26.11.2018, 27.11.2019, 07.01.2021, 26.10.2023 & 16.12.2023 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 by the Assessing Officer 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.

ITA No.777 & 778/Mum/2024 A.Ys. 2015-16 & 2016-17.

8. As the facts and circumstances in these two appeals are identical to ITA No 776/Mum/2024 for the A.Y 2014-15 (except variance in figures) and the decision rendered in above paragraph 6&7 would apply mutatis mutandis for these appeals also. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

9. In the result, the three appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in the open court on 30.05.2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 30/05/2024

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//

*ITA. No. 776, 777 & 778/MUM/2024
Jagdamba Textile Pvt Ltd, Mumbai.*

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

Mumbai