

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI PRASHANT MAHARISHI, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 4509/MUM/2023
(Assessment Year : 2014-15)**

Rahul Chandrakant Jhaveri Flat no. 12, 1 st Floor, Apurva Building, Kemps Corner, Abover Union Bank Of India, Mumbai 400036	Vs.	Dy. Commissioner of Income Tax, Central Circle 8(2), Room no. 658, 6 th Floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai 400020
PAN/GIR No. AAGPJ5270R		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Smt. Sanyogita Nagpal (CIT DR)
Date of Hearing	15/05/2024
Date of Pronouncement	05/06/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH:

1. This appeal has been preferred against the impugned order dated 28.09.2023 passed by the Ld. Commissioner of Income-tax(Appeals), National Faceless Appeal Centre(NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the relevant Assessment year [A.Y.] 2014-15,

wherein learned CIT(A) has upheld the addition of assessee's operational income of Rs. 16,74,53,674/- for providing accommodation entries.

2. The brief facts related to the appeal state that an information was received from GST authorities, that "One World Group" along with other companies/firms, formed a cartel of companies/firms, whereby, depending on the needs of each company/firm, other group companies/firm, issue sale or purchase invoices and vice versa without actual supply of goods. A search and seizure u/s. 132 of the Act was carried out on 06.11.2019 at the "One World Group" entities. The residence premise of Shri Rahul Chandrakant Jhaveri at Flat no-06, 3rd Floor, Malabar View-02, Morvi Lane, Chowpatty, Mumbai-07 was also searched.

2.1 Subsequently, the case of assessee was centralized with DCIT (CC)-7(2) Mumbai, who issued notice u/s. 153A of the Act to the assessee on 24.12.2020, requiring to file return within 30 days after receipts of this notice. However, the assessee did not file any return of income in compliance thereof. Thereafter, notice u/s. 142(1) of the Act was issued to the assessee, again requiring him to file the return of income but for no avail. Thereafter, the show cause notice was issued to proceed u/s. 144 of the Act. The assessee did not comply the statutory notices. Meantime, the PAN of the assessee was transferred to DCIT(CC)-8(2), Mumbai and assessee was informed about the same. During the assessment proceedings, it was found that Shri Rahul Chandrakant

Jhaveri is the proprietor of M/s Shanaya enterprises, M/s Karishma Enterprises, M/s Arvind Fashions, M/s SKNL Apparels, M/s Madura Fashions, M/s Indus Clothing, M/s Parx Designer, M/s Vogue Retail Ware. It was found that “One World Group” entities had shown purchases/sales from Shri Rahul Jhaveri’s entities without any actual movements of goods and only bogus purchase and sales bills were raised and money was transferred through bank accounts to show the transactions as genuine. All these entities were found to be operating from the house of Shri Rahul Jhaveri. During the search, no purchase bills, sales bills, transportation details, inward/outward registers were found from the premise of Shri Rahul Jhaveri. Shri Rahul Jhaveri admitted that there was no stock maintained at any of the above referred entities. Shri Rahul Jhaveri also admitted in his statement that these entities were directly managed and controlled by Shri Urvil Jani, director in “M/s One World Industries Pvt. Ltd.” and other group entities and he was merely a signing authority who used to sign blank cheques on instructions of Shri Urvil Jani. Learned Assessing Officer rejected books of accounts and estimated assessee’s operational income of Rs. 16,74,53,674/- @ 5% of total turnover of Rs. 334,90,73,487/-.

- 2.2 Aggrieved with the assessment order, assessee preferred an appeal before learned CIT(A), who passed ex-parte impugned order and upheld the additions made by the Assessing Officer and dismissed the assessee’s appeal.

3. The appellant assessee has approached this tribunal on the following grounds:

“1. On the facts and in the circumstances of the case, the Appellant submits that he was prevented by the circumstances beyond his control to reply to the various notices issued and upload responses for the submission during the assessment proceedings and appeal proceedings.

The Appellant submits that an opportunity of being heard be given as a matter of natural justice.

2. On the facts and in the circumstances of the case the Appellant submits that the Hon'ble Commissioner of Income Tax (Appeals) erred in upholding the Assessment Order passed u/s 153A r.w.s. 144 at the Income Tax Act, 1961 passed by the Learned Assessing Officer which is non abated on the date of search i.e. 06.11.2019, in view of the facts that no incriminating materials were found during the search carried out u/s 132 at the residence of Appellant and therefore, the Appellant submits that it is bad in law.

The Appellant submits that the Assessment Order passed u/s 153 A r.w.s. 144 at the Income Tax Act, 1961 be quashed.

3. On the facts and in the circumstances of the case the Appellant submits that the Hon'ble Commissioner of Income Tax (Appeals) erred in upholding the action of the Learned Assessing Officer of rejecting the books of accounts u/s 145(3) and making the estimated addition of Rs. 16,74,53,674/- being 5% of Rs 3,34,90,73,484/- i.e. aggregate of sales and purchases as per the Profit and Loss Account as accommodation entries without considering the income already declared in the Return of Income filed u/s 139(1) and the statement of the Appellant recorded during the course of search and reproduced by the Learned Assessing Officer in the assessment order.

The Appellant submits that books of accounts should be accepted and the addition of Rs. 16,74,53,674/- made on estimation be deleted and income shown in the Return of Income filed be accepted.....”

4. In response to the issuance of notice by this tribunal, learned

DR appeared and participated in the proceedings.

5. We have perused the material on record and heard learned representative for both the parties.

6. Learned representatives for the assessee has submitted that in view of the affidavit submitted by the assessee, 17 days delay in filing the appeal on 12.12.2023 may be condoned as the assessee went in mental trauma due to the additions made by the Assessing Officer and could not timely engage

the counsel. He further submits that due to unavoidable circumstances, beyond his control, he could not respond to the various notices issued during the assessment proceedings and appellate proceedings. He further submits to afford an opportunity of hearing in view of principles of the natural justice.

7. Learned DR has submitted that the assessee has not shown any sufficient cause, for the delay and the reasons which prevented him from participating in the proceedings before the authorities below, prayed to dismiss the appeal.
8. We have carefully considered the contentions and the reasons shown for the delay in filing of the appeal. We find that the delay caused in the filing of this appeal is 17 days. The assessee was met with the huge demand of Rs. 16,74,53,674/-. He also stated to be an accommodation entry provider, who has given the bills to the One World Group. It is also stated that assessee was running several proprietary concerns by giving bogus bills to only One entity i.e. One World Group. Therefore, in view of above, we find that there is sufficient cause to condone the delay in the filing of appeal. The 17 days delay is accordingly condoned.

9. We find that learned CIT(A), in para 5 of the impugned order, has mentioned that assessee did not bother to pursue the appeal in any productive manner before him. Hence, the same was adjudicated ex-parte. Assessee has also not participated in the assessment proceedings.
10. In view of the submissions made before us, in the interest and justice and fair play, we find it just and proper to restore the matter back to the learned Assessing Officer for denovo investigation and determination of tax liability. We, accordingly, restore this appeal to the file of The Jurisdictional Assessing officer with a direction to carry out all necessary investigation in this matter and thereafter determine the income of the assessee after finding out the beneficiaries, and then decide the income earned by the assessee from such an activity. The assessee is directed to remain present with all his arguments and evidence which he would like to make to help his case within 90 days from the date of receipt of this order. The failure of the assessee in so doing will empower the assessing officer to decide the issue in accordance with the law. Needless to say, that the learned assessing officer must follow the principles of natural justice. It is clarified that we have not made any observations on the

merits of the case. The appeal deserves to be partly allowed accordingly.

11. In the result, the appeal is partly allowed in above terms. Impugned order dated 28.09.2023 is set aside.

Order pronounced on 05.06.2024.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER
Mumbai; Dated 05/06/2024
Anandi Nambi, *Steno*

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai