

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA 945/Mum/2024
(Assessment year : 2012-13)

Cranes Real Estate Private Limited, Unit No.34A, 2 nd Floor, Arsieala Building, Wode House Road, Colaba, Maharashtra – 400 005 PAN :AADCC1763G	vs	Asst.Commissioner of Income Tax, Circle 3(1)(2), Mumbai Aayakar Bhavan, M.K. Road, Mumbai-400 020
APPELLANT		RESPONDENT

Assessee by : None
Respondent by : Shri H.M. Bhatt,(SR.DR)

Date of hearing : 10/06/2024
Date of pronouncement : 11/ 06/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the assessee is preferred against the order of the National Faceless Appeal Centre, Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2012-13, date of order 13.12.2022. The impugned order was emanated from the order of the Ld.ACIT 3(1)(2), Mumbai (in short, 'the A.O.')

passed under section 143(3)r.w.s. 147 of the Act date of order 26/12/2019.

2. The assessee has taken the following grounds of appeal:-

1. *On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in deciding the appeal ex parte.*
2. *On the facts and circumstances in the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in confirming re-opening the assessment done by the Assessing Officer u/s 147 of the Act.*
3. *On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in sustaining the addition made by the Id. A.O. u/s section 68 of the Act of Rs. 22,02,22,002 on account of alleged non genuine purchases.*
4. *On the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in holding the purchases as unexplained investment in the hands of appellant (para 9 &10 of the assessment order) & thus the order passed is without any application of mind.*
5. *The appellant craves leave to alter, amend, modify or substitute any ground / grounds and to add any new ground or grounds on or before the appeal is disposed off.”*

2. When the appeal was called for hearing, none was present on behalf of the assessee. No adjournment petition was filed. The registry has noted that no power of attorney is submitted with the appeal petition. The appeal order was passed ex parte. Considering the issue and merit of the case, we proceed to dispose of the appeal petition on *ex parte qua* for assessee after hearing the Ld.DR.

3. Brief fact of the case is that the case was reopened as per the information received from DDIT(Inv), Unit-1, Vapi. The allegation against the assessee was that the assessee debited a total amount of Rs.22,02,22,002/- as purchase from M/s Raves Trades Pvt Ltd in the impugned assessment year. The revenue has treated it as accommodation entry. The total amount was added back with the

total income under section 68 of the Act. Being aggrieved, the assessee filed an appeal before the Id. CIT(A). The Ld.CIT(A) passed order ex parte and upheld the assessment order. Being aggrieved, the assessee filed an appeal before us.

4. We heard Ld.DR, considered the documents available in the record and perused the orders of revenue authorities. The assessment was completed with an addition of Rs.22,02,22,002/-. During the appeal proceedings, no notice of the Id. CIT(A) was complied. So, the Ld.CIT(A) has passed an ex parte order. The assessee has taken ground that the reasonable opportunity was denied, and the assessee was unable to submit the documents before the Ld.CIT(A).

Hence, we are of the view that, in the interest of natural justice that assessee may be given one more opportunity to represent its case properly before the Id. CIT(A). Since the assessee is not able to provide satisfactory explanation about noncompliance of notices issued by the Id. CIT(A), we are of the view that the assessee should be imposed a cost in order to make him understand the importance of income tax proceedings. Accordingly, we impose the cost amount to Rs.5,000/- (Rupees five thousand only) upon the assessee which shall be paid to the credit of Income Tax Department within two months from the date of receipt of this order.

Subject to the payment of above cost which shall be verified by the Id. CIT(A). All the issues are restored to the file of the Id. CIT(A) for adjudicating the case on merits. We are not expressing any views on the merits of the case so as to limit the appellate procedure before the Ld. CIT(A). Needless to say, the assessee should get reasonable opportunity of hearing. On the other hand, the assessee should be diligent in appeal proceeding for expeditious disposal of appeal.

5. In the result, the appeal of the assessee bearing **ITA No.945/Mum/2024** is allowed for statistical purposes.

Order pronounced in the open court on 11th day of June, 2024.

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER
Mumbai,दिनांक/Dated: 11/06/2024
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, Mumbai