

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

BEFORE SHRI PRASHANT MAHARISHI, AM

ITA No. 385/Mum/2024

(Assessment Year: 2017-18)

M/s Ronit Mercantile Private
Limited
A-101, Humgra Park Pathanwadi
road, Malad (East), Opp Masjid
Mumbai-400 097

ITO, Ward 13(3)(2),
Aaykar Bhavan
Vs. Churchgate, Mumbai-400020

(Appellant)

(Respondent)

PAN No. AADCR9382C

Assessee by : None
Revenue by : Shri R.R. Makwana, DR

Date of hearing: 06.06.2024

Date of pronouncement : 29.07.2024

ORDER

PER PRASHANT MAHARISHI, AM:

01. ITA No. 385/Mum/2024, is filed by Ronit mercantile Private Limited (assessee /appellant) for A.Y. 2017-18, against the appellate order passed by the National Faceless Appeal Centre, Delhi [the learned CIT (A)] dated 4th October, 2023, wherein appeal filed by the assessee against the assessment order under Section 143(3) of the Income-tax Act, 1961 (the Act) dated 24th December, 2019, passed by the Income Tax Officer, Ward 13(2)(1), Mumbai (the learned Assessing Officer), was dismissed.

02. The assessee has raised following grounds of appeal:-

"1. On the facts and in the circumstances of the case and in law learned C.I.T.(A) erred in confirming the



action of the AO. in determining the income at Rs.18,39,180/- as against returned income of Rs.5,240/-

2. On the facts and in the circumstances of the case and in law, learned C.I.T.(A) erred in confirming the action of the AO. in determining disallowance u/s 14A of Act of Rs.3,02,671/-

3. On the facts and in the circumstances of the case and law, learned C.I.T.(A) erred in confirming the action of the AO. in determining the unexplained cash credit of Rs.15,31,271/-u/s 68 of the act and charges the same u/s 115BBE of the Act.”

03. The brief facts of the case is that the assessee is a company who filed its return of income on 14th October, 2017, declaring the total income of ₹5240/-. This return was picked up for limited scrutiny by issuing notice under Section 143(2) of the Act. As assessee is engaged in the business of trading of fabricators, exporters and importers of clothing but has made an investment of ₹14,91,00,000/- in 31 companies and has not disallowed any sum under Section 14A of the Act. Assessee was asked to furnish the details which were not complied with. The assessee also did not provide any information about the investment made. Therefore, the learned Assessing Officer made a disallowance under Section 14A of the Act of ₹3,02,671/- applying provisions of Rule 8D of the Rules. As the assessee did not furnish any information but submitted only bank statements, wherein it was found that assessee has received RTGS in Jammu and Kashmir

Bank Ltd. but did not furnish the information. Therefore, the learned Assessing Officer made the addition of amount deposited in the bank account of ₹15,31,271/- under Section 68 of the Income-tax Act, 1961 (the Act). Accordingly, the assessment order was passed on 24th December, 2019, under Section 143(3) of the Act determining the total income of the assessee at ₹18,39,180/-.

04. The assessee preferred the appeal before the learned CIT (A) but did not furnish any information despite notice issued on four occasions and therefore, the learned CIT (A) dismiss the appeal of the assessee without granting any relief.
05. Aggrieved with the appellate order assessee preferred the appeal before us. In appeal before us also despite service of notice, none appeared before us. Further, the appeal filed before us is late by 58 days but an affidavit of the director of the company is filed for condonation of delay stating that the delay has occurred because of the illness of the advocate of the assessee.
06. The Id DR was heard on merits as well as on condonation of delay in filing appeal.
07. On perusal of the affidavit, we find that by filing the appeal late, the assessee does not gain anything and the reasons shown in the affidavit are also not stated to be with other motive and therefore, we condone the delay and admit the appeal of the assessee.



08. However, looking to the order of the learned CIT (A), we find that despite four opportunities, the assessee did not remain present before the learned CIT (A) and therefore, the appeal of the assessee is not decided by the learned CIT (A) on merits, as assessee did not avail any opportunity of hearing. In view of this, we restore the appeal back to the file of the learned CIT (A), to decide the issue on the merits of the case. The assessee is directed to show the identity and creditworthiness of the investor and genuineness of the amount deposited of ₹15,31,271/- for which addition under Section 68 of the Act is made. The assessee is also directed to show about the investment in 31 companies of ₹14,91,00,000/- and what are the expenditure incurred by the assessee for the purpose of earning exempt income, if any. Accordingly, we restore all the three grounds of appeal with above direction to the assessee to the file of the learned CIT (A). The learned CIT (A) may make any inquiry and then decide the issue on merits of the case.

09. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29.07.2024.

-

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 29.07. 2024

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant



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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai