

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.837/M/2024
Assessment Year: 2017-18**

M/s. Agarwal Chem Products (India) Private Limited, 105/106, Parshwa Chamber, 17/21 Issaji Street Vadgadi, Masjid Bunder, Mumbai Maharashtra – 400 003 PAN: AADCA1085H (Appellant)	Vs.	DCIT-6(1)(1), 563B, 5 th Floor, Aayakar Bhawan, Maharishi Karve Road, Mumbai, Maharashtra - 400020 (Respondent)
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Present for:

Assessee by : Shri Suchek Anchaliya, C.A.
Revenue by : Shri Manoj Kumar Sinha, Sr. DR.

Date of Hearing : 24 . 07 . 2024
Date of Pronouncement : 31 . 07 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 27.12.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

2. In the instant case the Assessee had declared its total income at Rs.52,08,662/- by filing its return of income on 25.10.2017 which was selected for scrutiny under CASS by issuing the notice dated 09.08.2018 u/s 143(2) of the Act, thereafter subsequent statutory notices were issued to the Assessee by which the Assessee was

directed to furnish details along with supporting documentary evidences, however, the Assessee made no compliance. Therefore, the Assessing Officer (AO) perused the details of the Assessee's case and observed that the Assessee during the year under consideration is in receipt of share premium of Rs.1,70,000/- and unsecured loans of Rs.25,81,352/-.

3. Therefore the Assessee was asked to establish the identity, genuineness and creditworthiness of the Assessee and lenders by furnishing the copies of IT return, balance sheet, bank account statement reflecting the said entries and sources thereof. However, the Assessee had furnished only names of share premium, parties and names of unsecured loan lenders but no other supporting documentary evidence establishing identity, genuineness and creditworthiness. As the Assessee failed to establish its case, identity, genuineness and creditworthiness of the lenders therefore the AO ultimately made the additions of Rs.27,51,352/- and Rs.1,65,80,233/- on account of unexplained cash credit and disallowance u/s 40(a)(ia) of the Act respectively.

4. The Assessee, being aggrieved, challenged the aforesaid additions before the Ld. Commissioner, however, in spite of sending various notices for hearing neither complied with the notices nor furnished any reply/documents and therefore in the constrained circumstances, the Ld. Commissioner dismissed the appeal of the Assessee and consequently affirmed the aforesaid additions. The Assessee, being aggrieved, is in appeal before us.

5. Ld. Counsel before us submitted that during the period from middle of 2018 to 2019 when the assessment proceedings were going on there were many internal disputes within the management of the assessee company as a consequence of which the operations of the assessee company had significantly reduced thereafter and accordingly

there was also downsizing of the quantum of the staff of the assessee company. During the assessment and appellate proceedings, the assessee company was barely functioning with the amount of staff adequate for keeping up with the day to day activities and operation of the assessee company to keep it afloat. Even otherwise due to lack of proper and experienced staff the Assessee was unable to collate and compile the necessary data and documents to present the facts and circumstances of its case. In addition to the aforesaid reasons the email address registered in the income tax portal of the Assessee belonged to Mr. Suresh Vyas, an employee of the Assessee company who left the company in January 2023, consequently the Assessee was unaware of new notices issued by the Ld. Commissioner. Somehow now currently the management of the Assessee company has made extensive efforts to overall the functioning of the management and operations of the Assessee company and hired sufficient and experienced staff and accordingly has been able to collate and compile the documents before the Hon'ble Tribunal in the form of additional evidence such as ITR acknowledgement and computation of income, audited financial statement, documents pertaining to share premium and unsecured loan, documents pertaining to disallowances u/s 40(a)(ia) of the Act such as rent expenses, commission, legal and other expenses, bank statements and documents pertaining to the unsecured loan etc. As the documents are essential for real adjudication of the controversy involved in this case, hence the same may be admitted and be considered for adjudication of the instant appeal.

6. On the contrary the Ld. D.R. refuted the claim of the Assessee.

7. Heard the parties and perused the material available on record. No doubt the documents as mentioned above are essential and important for adjudication of the issues involved and the Assessee has

also been able to demonstrate plausible reasons for not producing the relevant documents before the authorities below. Hence, for the just decision of the case and for the ends of substantial justice, we are inclined to remand the instant case to the file of the AO with a direction to consider the documents filed before us which are to be filed before the AO as the Assessee undertakes. Suffice to say, the AO shall grant reasonable opportunity to the assessee to substantiate its claim before the AO.

8. We also direct the assessee to cooperate with the appellate proceedings and to file the relevant submissions/documents which would be essential and required by the AO for proper adjudication of the case. We clarify that in case of further default the assessee shall not be entitled for any leniency. Hence, the case is remanded accordingly.

9. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 31.07.2024.

**Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.