

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

BEFORE SHRI BR BASKARAN, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

I.T.A No.2686/Mum/2024
(Assessment year: 2014-15)

Prayer Tech Solutions Private Limited, R.No.9, 1 st Floor, Qadri Manzil, Marol Village, Nr. St. Lawrence School, Andheri East, Mumbai- 400 059 PAN :AAFCEP9303F	vs	Commissioner of Income-tax (Appeals), Income Tax Department, National Faceless Assessment Centre, Delhi / Income-tax Officer, Ward-15(2)(1), Mumbai
APPELLANT		RESPONDENT

Assessee by : None
Respondent by : Ms. Madhumalati Ghosh (CIT DR)

Date of hearing : 29/07/2024
Date of pronouncement : 01/ 08/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the assessee was filed 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 2014-15, date of order 14.03.2024. The impugned order was emanated from the order of the

National Faceless Assessment Centre, Delhi (in short, 'the A.O.')

passed under section 147 r.w.s. 144 r.w.s. 144B of the Act date of order 27/03/2022.

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

"1. In the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 38,00,00,000/- on account of alleged unexplained cash credits.

2. In the facts and circumstances of the case, the Appellant's director who was supervising and responsible for assisting the Ld. CIT(A) was medically ailed being the pre-dominant reason for not having been able to submit detailed grounds of appeal.

3. In the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 38,00,00,000/- on account of alleged unexplained cash credits debtors the flagrant violation of principles of natural justice occasioned while passing of the assessment order

4. In the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs. 8,00,00,000/- despite there being parimateria assessment orders passed on the same subject matter whereby no addition was made.

5. In the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the penalty and interest imposed on the Appellant for the relevant assessment year.

6. The Appellant craves leave to add/alter any of the grounds of appeal on or before the date of final hearing or during the course of appeal proceedings."

3. The brief facts of the case are that the assessee is a non-filer of income-tax return. Notice under section 147 was issued and the assessee filed the return in

pursuance of notice U/s 148 of the Act. During the assessment proceedings, the Ld.AO asked to clarify the advances received from “M/s Highpoint Trading Company Pvt Ltd” amount to Rs.38 crores. But the assessee had not been able to explain the advances received from this party before the Ld.AO. The Ld.AO added back Rs.38 crores under section 68 related to unexplained investment credit in the books of account. Being aggrieved, the assessee filed an appeal before the CIT(A). The Id.CIT(A) issued the several notices, but all are remained un-complied. Finally, the appeal order was passed exparte by upholding the assessment order. Being aggrieved, the assessee filed an appeal before us.

4. When the appeal was called for hearing, none was present on behalf of the assessee. The assessee had not filed any adjournment petition before the Bench. Considering the merit of the case, we proceed to dispose of the appeal exparte qua for assessee after hearing the Id.DR.

5. We heard the submission of the Id.DR, considered the documents available in the record and perused the order of the revenue authorities. Considering the addition of Rs.38 crores, the assessment was completed under section 144 of the Act on exparte basis. The relevant part of the assessment order is reproduced as below:-

“Details of immediate source of fund:-

<i>Date</i>	<i>Immediate Source of Fund</i>	<i>Name of Party/description</i>	<i>Source of immediate credit entries in bank</i>	<i>Invested amount</i>
14-05-2013	9,96,00,000	Highpoint Trading Company Pvt Ltd	Advances from party	10,00,000
14-05-2013	5,00,000	Own Capital		

15-05-2013	9,99,85,000	Highpoint Trading Company Pvt Ltd	Advances from party	8,26,00,000
16-05-2013	8,25,10,000	Highpoint Trading Company Pvt Ltd	Advances from party	8,25,10,000
16-05-2013	8,37,15,000	Highpoint Trading Company Pvt Ltd	Advances from party	87,00,000
16-05-2013	7,00,000	Highpoint Trading Company Pvt Ltd	Advances from party	7,00,000
01-08-2013	24,00,000	Own capital	Own capital	25,00,000
08-01-2014	4,53,09,896	Own capital	Amount received from trade Receivables	19,00,0000
<i>Total</i>				<i>38,00,00,000</i>

In spite of notices issued u/s 142(1) dated 13/01/2022 and 14/02/2022, no documentary evidence like ledgers, books of accounts, copies of bank statements etc. have been produced to substantiate its claim. Further, no break up to ascertain the nature of current liabilities as well as the details of the parties have been provided. Further a draft Assessment Order was sent to assessee on 24/03/2022, in response to which the assessee submitted reply dated 24/03/2022 vide which he submitted copy of ITR filed in response to notice u/s 148, copy of financial statements. Valuation report of Vakragee Holding Pvt. Ltd, copy of bank statements etc. However, the reply of the assessee is not acceptable on the basis of the discussion on the following paragraph:

It can be seen from the financial of M/s. Prayer Tech Solutions Pvt. Ltd, there is negligible Share Capital, almost Nil Fixed Asset and very less employee benefit expenses in the company to carry out such huge turnover. Therefore, company has characteristics of a paper company and thus creditworthiness of M/s. Prayer Tech Solutions Pvt Ltd is not verified.

Further, it can be seen from the financial of M/s. Highpoint Trading Co. Pvt. Ltd, there is negligible Share Capital, almost Nil Fixed Asset and very less employee benefit expenses in the company to carry out such huge turnover. Therefore, company has characteristics of a paper company and thus creditworthiness of M/s. Highpoint Trading Co. Pvt Ltd is not verified which makes the investment made by M/s. Prayer tech Solutions Pvt Ltd completely dubious.

As per die information in possession of the undersigned, statement recorded under oath of Mr. Sal Krishna Yadav, office boy at High Point Trading Company, registered address Flat No, 18, Ground Floor Samikaran Apartment, Sant Janabai Marg, Ville Parley, Mumbai East and Mr. Ajay Jangird, CA for High Point, Trading Company was recorded by ITO, Mumbai on 28.12.2018 during the course of its assessment proceedings. These statements lead to the conclusion that in High Point Trading Company no business of trading in DMS goods was being carried out. This clearly brings out the picture that it was a bogus/paper company.

Thus, in the light of the facts mentioned above, the credits as appearing in the books of accounts of M/s, Prayer Tech Solutions Pvt. Ltd vide which investment of Rs. 380000000/- has been made by M/s. Prayer Tech Solutions Pvt Ltd in the shares of Vakrangee Holding Pvt Ltd remains unexplained from the parameters of creditworthiness and genuineness and is hereby added to the total income of the assessee u/s 63 of IT Act, 1961 as unexplained cash credits.

(Addition of Rs. 38,00,00,000/-)"

We find that the assessee had not been able to explain the advances received from the party, "M/s Highpoint Trading Company Pvt Ltd". Further, the assessee introduced the own capital which was also remain unexplained before the Ld.AO. As a result, the addition was made under section 68 of the Act. During the appeal proceedings, the appellate authority allowed several opportunities to the assessee for submission of the evidence. The relevant part of the appeal order is reproduced as below: -

"4. During the course of appeal proceedings, the following notices/letters for hearing were issued to the appellant, but till date the appellant has neither filed any response nor filed any submissions in support of grounds of appeal. The details of the notices issued are as under: -

S.No.	Date of Notice Sent	Compliance Date	Remarks
1.	16.11.2022	-	<i>Issued Enablement of Communication Window. No response from the appellant.</i>
2.	18.09.2023	03.10.2023	<i>No response from the appellant</i>
3.	13.10.2023	30.10.2023	<i>No response from the appellant</i>
4.	01.12.2023	18.12.2024	<i>No response from the appellant</i>
5.	27.12.2023	11.01.2024	<i>No response from the appellant</i>

4.1 A Can be seen from the above table the appellant was given ample opportunities by way of notices issued as narrated above. However, the appellant / AR has not furnished any submission.

4.2 There is a well-known dictum of law "VIGILANTIBUS, NO DORMENTIBUS, JURA SUBVENIUNT" which means law will help only those who are vigilant Law will not assist those who are careless of his/her right. In order to claim one's right, he/shemust be watchful of his/her right. Only those persons, who are watchful and careful of using his/her rights, are entitled to the benefits of law Law confers rights on persons who are vigilant of their rights."

6. The Id.DR argued that the assessee has not made any compliance either before the Id. AO nor before the Id.CIT(A). In the grounds of the assessee placed that one of the directors, who dealt with the legal matters of income-tax, was medically ill and that is the predominant reason for non submission of documents before the Id.CIT(A). In our considered view, the assessee is carrying the high demand, i.e. addition of Rs.38 crores. 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 non-complied before the Id. AO and 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 Id. CIT(A). Needless to say, the assessee should get a reasonable opportunity of hearing. On the other hand, the assessee should be diligent in appeal proceeding for expeditious disposal of appeal.

7. In the result, appeal of the assessee **ITA No. 2686/Mum/2023** is allowed for statistical purposes.

Order pronounced in the open court on 01st day of August, 2024.

Sd/-

(BR BASKARAN)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 01/08/2024
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