

IN THE INCOME TAX APPELLATE TRIBUNAL "F" BENCH
MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SMT RENU JAUHRI, ACCOUNTANT MEMBER
ITA No. 1547/MUM/2024
(A.Y.2012-13)

Falcon Gold House Pvt Ltd, 65/67 Zaveri Bazar, Shop No. 6, 1 st Floor, Mumbai – 400002.	Vs.	ITO Ward-4(2)(1), Aayakar Bhavan MK Road, Mumbai -400020.
PAN/GIR No. AABCF7527M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Ms. Ruby Srivastava.AR
Revenue by	Ms. Rajeshwari Menon.Sr. DR

सुनवाई की तारीख/Date of Hearing	12.08.2024
घोषणा की तारीख/Date of Pronouncement	13.08.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC) Delhi / CIT(A) passed u/sec 144 and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

1 That the CIT Appeal did not consider the facts mentioned in appellant's reply filed on 10/8/2023 itself and failed to appreciate that it was a business transaction of appellant, which needed funds for operating the very first year of its business

2. The CIT Appeal chose to ignore the banking transaction showing name of party, date of transaction and amount and still doubted that source of money was not proved by appellant while dismissing the appeal

4. The assessee craves, leave, add, alter or amend the existing grounds of appeal on or before the date of hearing.

2. The brief facts of the case are that, the assessee company has not filed the return of income for the A.Y 2012-13 and the Assessing Officer(A.O) has received information that the assessee has made time deposits aggregating to Rs.1,50,00,000/- with Bank of India during the financial year 2010-11 and also received interest on deposits of Rs. 2,00,808/-. The AO has reason to believe that the income has escaped assessment and issued notice u/sec 148 of the Act and there was no compliance. Further notice u/sec 143(2) and u/sec 142(1) of the Act are issued and the A.O find that the assessee has not submitted any information on the sources of fixed deposits with the bank and the A.O has issued a show cause notice referred at Para 3 of the assessment order. Since there was no compliance by the assessee, the AO has invoked the provisions u/sec 144 of the Act and relied on the material available on record and made best judgement assessment with the addition of time deposits of Rs.1,50,00,000/- as unexplained income and similarly made addition of interest income of Rs. 2,00,808/- and assessed the total income of Rs.1,52,00,808/- and passed the order u/sec 144 of the Act dated 17.12.2019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the

AO and has issued notices of hearing and since there was no proper compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has sustained the additions made by the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information of the assessment proceedings. Further the Ld.AR submitted that the assessee has a good case on merits and has filed an application for admission of the additional evidence under Rule 29 of ITAT rules. Per contra, the Ld. DR submitted that the evidences were not examined by the lower authorities and the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.AR that the CIT(A) has erred in confirming the additions by the A.O. as the transactions are not supported with the documentary evidences and passed the ex parte order. The assessee is filling the application for admission of additional evidences under Rule 29 of ITAT rules with the Audited financial statements, Bank account statement, Ledger Accounts and supporting information in respect of fixed deposits with the bank etc which were not available earlier and could not produce before the lower authorities.

Further the evidences play a important role in decision making in the adjudicating proceedings. Therefore considering the facts, circumstances and additional evidences, the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making and admit the additional evidence. Accordingly, to meet the ends of justice, we set aside the order of the CIT(A) and restore the entire disputed issues along with the additional evidence to the file of the assessing officer to decide afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information, subject to the payment of cost of Rs. 5,000/- to the Income Tax Department by the assessee within one month from the date of receipt of the order and produce the proof of payment. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 13.08.2024

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 13/08/2024
KRK

Copy of the Order forwarded to:

1. The Appellant,
 2. The Respondent
 3. The CIT(A)-
 4. CIT
 5. DR, ITAT, Mumbai
 6. Guard file.
- //True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,
Mumbai