

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

**BEFORE SHRI. B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A 1655/Mum/2024
(Assessment Year:2013-14)**

Jagdish Kanakraj Sanghvi 23, 2 nd Floor, Kotawal Building, 3 rd Khetwadi Lane, Near Alankar Cinema, Mumbai-400 004 PAN : ACAPS6172P	vs	ITO 19(2)(1), Mumbai Piramal Chamber, Mumbai
APPELLANT		RESPONDENT

Assessee by : Shri Aman Shah
Respondent by : Shri Ashish Kumar (SRAR)

Date of hearing : 28/10/2024
Date of pronouncement : 29/10/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the assessee is preferred against the order of the Learned National Faceless Appeal Centre (NFAC), Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (for brevity the "Act"), order dated 29.11.2023. The impugned order is emanated from the order of the Learned Income-tax Officer-19(2)(1), Mumbai, order passed under section 143(3) of the Act, date of order 28/03/2015.

2. The assessee has taken the following grounds:-

“Being aggrieved by the order of the CIT (Appeals), appellant submits herewith the following grounds of appeal (which are taken up without prejudice to each other) for your sympathetic consideration:

1. The Learned Commissioner of Income-tax (Appeals) [hereinafter referred to as "Ld. CIT(A)"] has erred in upholding the order of Learned Assessing Officer by adding the loan taken to the extent of Rs. 54,00,000/- from M/S Falak Trading Co. Pvt. Ltd. as non-genuine unsecured loan.

2. The appellant craves to leave, add, alter or amend any grounds of appeal before or at the time of hearing.”

3. The brief facts of the case are that a search and seizure action was conducted on Shri Pravin Kumar Jain group on 03/10/2013 by DDIT(Inv), Mumbai. During the search proceedings, it is found that the group runs paper companies / firms / proprietary concerns with no real business activities operating solely with the purpose of facilitating the fraudulent financial transaction which includes, among others, providing of accommodation entries in form of unsecured loans to the interested parties. On getting information from the DIT(Inv), Mumbai, the Id. AO found that the assessee has also obtained accommodation entry for unsecured loan from said group amount to Rs.54 lakhs from party, M/s Falak Trading Co Pvt. Ltd. After a detailed investigation, the Ld.AO added back Rs.54 lakhs under section 68 of the Act on ground of bogus loan. Being aggrieved on the assessment order, the assessee filed an appeal before the Id. CIT(A) with delay. The Ld.CIT(A) allowed the assessee a reasonable opportunity on different dates, but none of the notice was complied with. Finally, the appeal order was passed exparte, and the appeal of the assessee was dismissed. Being aggrieved on the appeal order, the assessee filed an appeal before us.

4. We heard the rival submission and considered the documents available in the record. The Ld.AR submitted a written submission which is kept in the record. In argument, the Ld.AR placed that the email id provided to the Id. CIT(A) was info@jpstainless.com which was not at all active. Now the assessee activated new email id jpstainlesssteel@yahoo.in which is in operation. The Ld.CIT(A) allowed number of opportunities for hearing, but all the notices are remained un-complied with. Further, we find that the Ld.CIT(A) indicated that the appeal of the assessee was filed with delay of 382 days and the assessee was not able demonstrate any 'sufficient cause' for delay in filing appeal before the authority. So, on the ground of limitation, the appeal of the assessee was dismissed ex parte. We find that the assessee has explained the reason for non-receiving of notices in appeal proceeding. The assessee filed an application for condonation of delay before the Ld. CIT(A) and explained reason for delay in filing appeal before the Ld. CIT(A). We find that the reasonable opportunity was denied to the assessee. The Ld.DR agued and was not able to submit any other mode of communication of notice except email to the assessee during appeal proceeding. The Ld.AR prayed for restoring the matter back to the file of Ld. CIT(A) for *denovo* adjudication.

Considering the submission of both the parties, we restore the matter to the file of the Ld.CIT(A) for *denovo* adjudication. We are not expressing our view on the merit of the case, which will impair the appeal proceedings. Both the revenue and the counsel of the assessee had not made any objection for remanding the appeal before the Id. CIT(A). Needless to say, that the Ld. CIT(A) shall provide proper and adequate opportunity of being heard to the assessee in set aside

proceedings. The evidence/explanation submitted by assessee in its defense shall be admitted by the Ld. CIT(A) and adjudicated on merits in accordance with law.

On the other hand, the assessee should be diligent and co-operative before the LD. CIT(A) for quick disposal of the appeal.

5. In the result, the appeal of the assessee bearing **ITA 655/Mum/2024** is allowed for statistical purpose.

Order pronounced in the open court on 29th day of October, 2024.

Sd/-

(B.R. BASKARAN)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 29/10/2024
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER,

(Asstt. Registrar), **ITAT, Mumbai**