

IN THE INCOME TAX APPELLATE TRIBUNAL ‘F’ BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM
AND SHRI SANDEEP SINGH KARHAIL, JM**

ITA No. 1900/Mum/2024
(Assessment Year: 2017-18)

Vama Industries Limited Aayakar Bhavan, Mumbai-400 021	Vs.	ACIT Circle 13(3)(2) Mumbai
PAN/GIR No. AAACS 9194 E		
(Assessee)	:	(Respondent)
Assessee by	:	Shri T Chaitanya Kumar
Respondent by	:	Shri Rajesh Meshram
Date of Hearing	:	05.11.2024
Date of Pronouncement	:	08.11.2024

ORDER

Per Om Prakash Kant, A M:

This appeal has been preferred by the assessee against the order dated 19.02.2024, passed by the learned Commissioner of Income Tax (Appeals) - National Faceless Appeal Centre, Delhi (in short ‘Id. CIT(A)’) for the Assessment Year (‘A.Y.’ for short) 2017-18, raising the following grounds:

- 1. The order of the learned Commissioner of Income-tax (Appeals) is erroneous both on facts and in law, in dismissing the appeal without giving any proper opportunity to the appellant without adhering to the due process as outlined in Rule 46A of the income tax act is illegal and arbitrary, and violative of the principles of natural justice.*
- 2. The learned Commissioner of Income-tax (Appeals) erred in passing an order without considering the additional evidence under Rule 46A of the Income-tax, is illegal ex-facie, and is violative of principles of natural justice it results in Violation of Principles of Natural Justice.*
- 3. The Commissioner of Income Tax (Appeals) (CIT(A)) passed the order under section 250 without adhering to the due process as outlined in Rule 46A. Despite the submission of additional evidence by the appellant during the appeal proceedings. This action deprived the appellant of the opportunity to have the additional evidence properly considered and rebutted, thus violating the principles of natural justice.*

4. *The CIT(A) dismissed the appeal without considering the additional evidence submitted by the appellant during the appellate proceedings. As a result, crucial evidence supporting the appellant's case was disregarded, leading to an unfair and prejudicial decision.*

5. *The learned Commissioner of Income Tax (Appeals) erred in confirming the action of the assessing officer in treating cash sales an amount of Rs 46,31,034/- as income of the appellant addition under section 68 of the Act, is illegal ex-facie and violative of principles of natural justice.*

6. *The learned Commissioner of Income Tax (Appeals) erred in confirming the action of the assessing officer in treating Amount received from debtors 2,66,216/- as income of the appellant addition under section 68 of the Act, which is illegal ex-facie and violative of principles of natural justice.*

7. *The learned Commissioner of Income Tax (Appeals) erred in confirming the action of the assessing officer in treating the Amount of Rs 28,11,250 received from Employees (Salary advances) as income of the appellant under section 68 of the Act, is illegal ex-facie and violative of principles of natural justice.*

8. *The learned Commissioner of Income Tax (Appeals) erred in confirming the action of the assessing officer in determining the total income at Rs. 27707390 /- against the return of income S 1,90,69,890/- / to the appellant is illegal ex-facie and violative of principles of natural justice.*

9. *The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the action of the Assessing Officer charging interest u/s 234A of Rs. 1,08,64,672/- 234B of Rs. 1,16,40,720/-*

2. We have heard the rival submissions of the parties and perused the relevant materials on record. In the case of assessment u/s. 143(3) of the Act was completed by the ld. learned Assessing Officer ('ld. A.O.' for short), assessing the total income at Rs.2,77,07,390/- as against the return of income declaring total income at Rs.1,90,89,890/- filed by the assessee. The AO made addition under section 68 of the Act for cash deposits by the assessee. The assessee explained the source of cash deposits as by way of cash sales, recovery of old debtors, etc. The assessee filed additional evidence before the ld. CIT(A). The ld. CIT(A) called for remand report from the ld. A.O. However, despite many reminders, no remand report was filed by the ld. A.O. and, therefore, the ld. CIT(A) without waiting for any comments from the ld. A.O., admitted the additional evidences and sustained the additions made by the ld. A.O. The ld. CIT(A)

has noted that while explaining the source of the cash deposits, the assessee failed to submit confirmation from the employees that cash was received from them against the advances paid by the company. The ld. CIT(A) has also noted that no cash flow statement was provided by the assessee during the appellate proceeding. In respect of recovery from the debtors also, the ld. CIT(A) has noted that no documentary proof including their PAN number was filed by the assessee. In these circumstances, the ld. CIT(A) sustained the addition made by the ld. A.O.

3. Before us, the ld. Counsel for the assessee submitted that the said evidences could not be gathered during the course of appellate proceeding and now the assessee is willing to produce all those documents along with the additional evidences filed. In view of the above facts and circumstances and in the interest of the substantial justice, we feel it appropriate to set aside the order of the ld. CIT(A) on the issue in dispute and restore the matter back to the file of the ld. A.O. as same could not be examined or verified by the A.O. during the course of remand proceedings. Accordingly, the grounds of the appeal of the assessee are allowed for statistical purpose.

4. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 08.11.2024

Sd/-

Sd/-

(Sandeep Singh Karhail)

(Om Prakash Kant)

Accountant Member

Accountant Member

Mumbai; Dated : 08.11.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai