



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "SMC", LUCKNOW**

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

ITA No.346/LKW/2024
(Assessment Year: 2010-11)

Fatima Builders Pvt. Ltd 18 Co operative Colony Bhawaniganj, Lucknow- 226003.	v.	ADDL. JCIT(A)-1, Pune Pune, Maharashtra.
PAN:AABCF1412D		
(Appellant)		(Respondent)

Appellant by:	Shri A. P. Sinha, Adv.
Respondent by:	Shri Sunil Kumar Rajwanshi, Addl. CIT(DR)

ORDER

PER ANADEE NATH MISSHRA, A.M.:

1. The present appeal has been filed by the assessee against the order passed by the Ld. Addl. Joint Commissioner of Income Tax (Appeals)-1, Pune [hereinafter "the Ld. JCIT(A)"] u/s 250 of the Income Tax Act, 1961 (hereinafter "the Act") dated 15/03/2024 for the assessment year 2010-11 wherein, the assessee's appeal has been dismissed in limine for the reason of non compliance. The grounds of appeal of the assessee are as under: -

"1. In the facts and circumstances of the case and in law the Ld. C.LT. (Appeals), National Faceless Appeal Centre [NFAC], Delhi, has legally erred in confirming the action of the Ld. A.O. while sustaining the addition of Rs. 14,90,000.00.

l-(a) In the facts and circumstances of the case and in law the Ld. C.LT., (Appeals). National Faceless Appeal Centre (NFAC), Delhi, has erred in confirming the action of the Ld. A.O. while not deleting the addition of Rs. 14.90.000.00 solely on the ground that the creditworthiness and genuineness of transactions not proved.

l-(b) In the facts and circumstances of the case and in law the Ld. C.LT., (Appeals). National Faceless Appeal Centre [NFAC]. Delhi, has erred in confirming the action of the Ld. A.O. while not appreciating the loan of Ks. 14,90,000.00 taken from a society was also repaid in subsequent year.

2-The appellant craves his/her right to add, amend or alter any of the grounds on or before the hearing.”

2. In this case, assessment order dated 31/12/2017 was passed by the Assessing Officer (“AO”), u/s 147/143(3) of the Act whereby the assessee’s total income was assessed at Rs.16,61,798/- (Rounded off to Rs.16,61,800/-), as against the loss of Rs.78,202/- declared by assessee in the Return of income. In the aforesaid assessment order, addition of Rs.14,90,000/- was made u/s 68 of the Act on account of unexplained cash credit. The assessee’s appeal against the aforesaid addition was dismissed by the Ld. CIT(A) vide impugned appellate order dated 15.03.2024.

3. At the time of hearing before us, the Ld. Counsel for the assessee submitted that during the assessment proceedings, the AO issued summons to the creditor from whom the aforesaid amount of Rs.14,90,000/- was received; however, only one opportunity was provided to the concerned person to be present before the AO for verification and for recording of the statement. He submitted that time provided in the summons was too short and this was not reasonable opportunity for providing creditworthiness of the person from whom the aforesaid loan was taken by the assessee. He further submitted that the issue in dispute regarding the aforesaid addition of Rs.14,90,000/- should be set aside to the file of the Assessing Officer with a direction to pass fresh assessment order in accordance with law after providing reasonable opportunity to the assessee. The Ld. Sr. Departmental Representative (“DR”) was in an agreement with

this request and expressed no objection to restoration of the matter to the file of the Assessing Officer.

4. On perusal of the assessment record, it is found that there is mention of summons issued u/s 131 of the Act being issued by Assessing Officer to person from whom the aforesaid loan was taken to have been received by the assessee. However, relevant details regarding the summons are not mentioned in the assessment order. For example, the date of summons, the date of attendance required by the aforesaid summons etc, were not stated in the assessment order by the Assessing Officer. In view of the foregoing, and as representatives of both sides are in agreement with this, in the specific facts and circumstances of the present case before us; the impugned order dated 15.03.2024 of the Ld. CIT(A) is set aside and the issue regarding addition of Rs.14,90,000/- is restored back to the file of the Assessing Officer with a direction pass denovo assessment order in accordance with law after providing reasonable opportunity to the assessee. All grounds of appeal are treated as disposed of in accordance with the aforesaid direction.

In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 29/11/2024.

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

DATED: 29/11/2024

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

//True Copy//

By order

Assistant Registrar