

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI**

**BEFORE JUSTICE (RETD.) SHRI C.V. BHADANG, PRESIDENT
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No. 3895/Mum/2024
Assessment Year : 2013-14

Dharti Developers, Flat No. 701, Acropolis Co-Op. Housing Soc. Ltd., Plot No. 28, Lokhandwala Complex, Andheri (W), Mumbai PAN : AAHFD7804J	vs.	Income Tax Officer, Ward-24(1)(5), 5 th Floor, Piramal Chambers, Lalbaugh, Mumbai.
(Appellant)		(Respondent)

For Assessee :	Shri Rohan Dehhpande
For Revenue :	Shri R.R. Makwana, Sr.DR

Date of Hearing :	12-12-2024
Date of Pronouncement :	12-12-2024

ORDER

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the decision rendered by the Ld.CIT(A)-NFAC, Delhi confirming the addition of Rs.28,99,459/- made by the Assessing Officer (AO) u/s.68 of the Income Tax Act, 1961 ('the Act') in AY.2013-14.

2. The Ld.AR submitted that the assessee is a builder and developer. During the course of assessment proceedings, the AO noticed that the assessee has borrowed loans from ten persons. Upon examination of those creditors, the AO took the view that the assessee has not discharged its onus placed u/s.68 of the Act in respect of loans taken from eight persons mentioned in the assessment order. Accordingly, the AO assessed those loans aggregating to Rs.28,99,459/- as unexplained income of the assessee u/s.68 of the Act. The Ld.CIT(A) also confirmed the same.

3. The Ld.AR submitted that the assessee has furnished confirmation letters obtained from all the eight persons and also their bank accounts before the AO, but the same has not been verified by the AO. He submitted that the AO has made the addition in respect of six creditors mainly for the reason that the notices u/s 133(6) of the Act issued by him, were either returned or not responded to. He submitted that the AO should have examined the documents furnished by the assessee to prove the cash credits. He submitted that the Ld.CIT(A) also did not examine the documents properly. Accordingly, he prayed that this addition may be restored to the file of the AO for examining it afresh.

4. We heard Ld.DR and perused the record. We do not find any comment of the AO about the documents furnished by the assessee. Hence, we find merit in the submissions made by the Ld.AR. According to the Ld.AR, the assessee has furnished confirmation letters, bank account copies, ledger account copies etc., to prove the cash credits. In our view, the AO should have examined those documents before making any decision. Accordingly, we are of the view that this issue requires fresh examination at the end of the AO. Accordingly, we set aside the order passed by the Ld.CIT(A) on this issue and restore the same to the file of the AO for examining it afresh. We also direct the assessee to furnish all the information and explanation that is required to prove the

cash credits. After affording adequate opportunity of being heard, the AO may take appropriate decision in accordance with law.

5. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 12-12-2024

Sd/-
(JUSTICE (RETD.) C.V. BHADANG)
PRESIDENT

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai,

Date: 12-12-2024

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "D" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai