

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH AT KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s). 2177/KOL/2024
Assessment Year(s) 2012-13**

ITO, Ward-5(1), Kolkata	Vs.	M/s. Faithful Traders Private Limited
<i>(Appellant)</i>		<i>(Respondent)</i>
PAN: AABCF7460P		

Appearances:

Department represented by : Pampa Ray, Sr. DR.

Assessee represented by : None.

Date of concluding the hearing : 02-April-2026

Date of pronouncing the order : 17-April-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2012-13 dated 14.06.2024.

1.1 The Registry has informed that the appeal is barred by limitation by 77 days. The Revenue has filed a petition for condonation of delay explaining the reasons that the records were not readily traceable and the Appeal Scrutiny Report (ASR) was submitted to the regional office but inadvertently incorrect limitation date was mentioned. The ASR was returned by the Range head for redrafting the Grounds of appeal, which were redrafted and sent to the Ld. PCIT through the Range head and the authorisation for filing the appeal was received from the office of the Ld. PCIT-2, Kolkata on 22.10.2024 and thereafter, the appeal was filed.



After perusing the same, we are satisfied that the Revenue had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The Revenue is in appeal before the Tribunal raising the following grounds of appeal:

“1. That the Hon’ble CIT(A) has erred in deleting the addition of Rs 36,50,000/- in favour of the beneficiary by way of raising bogus loss through layering of funds through accounts of other companies ignoring the fact that the assessee failed to prove the genuineness of the transactions.

2. That the Hon hie CIT(A) has erred in coming to the conclusion that the reasons recorded by the AO are mechanically done and lacks objective satisfaction.

3. That on the facts in absence of verification the Hon'ble CIT(A) should have remanded the matter to the AO for fresh verification. Thus, he has violated the provisions of Rule 46A of the IT Rules.

4. The appellant prays that the tax effect in the case is 10,95,000/- which is below the monetary limit prescribed in CBDT Circular No. 9/2024. dtd. 17.09.2024, vet same is covered by clause (h) of Exceptions laid down under Para 3.1 of the CBDT Circular No, 5/2024 vide F. No. 279/Misc 142/2007-ITJ(Pt), dated 15th of March, 2024.

5. That the appellant craves leave to add any new ground or alter any of the go rounds of appeal find to place arguments during the course of hearing of the appellate proceedings.”

3. Brief facts of the case are that the assessee company had e-filed the return of income on 26.03.2013 declaring the total income of ₹1,150/- for the AY 2012-13. An information was received from the Investigation wing, Kolkata that the assessee company was beneficiary of ₹36,50,000/- by way of raising bogus loss through layering of funds through accounts of other companies during the FY 2011-12. Accordingly, the assessment was reopened by issuing notice u/s 148 of the Act on 27.03.2019; however, there was no compliance to the notice issued. The assessee filed submissions but was not able to establish the

source of the receipt and therefore, a sum of ₹36,50,000/- was added as unaccounted money which was routed to the regular books of the assessee through paper/jamakharchi companies and the total income of the assessee was assessed at ₹36,51,150/- u/s 147/143(3) of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who considered the legal issue and upheld the reopening of the assessment and dismissed all the legal issues raised before him. As regards the addition of ₹36,50,000/-, the Ld. CIT(A) has reproduced the relevant paragraph, discussed the addition and has deleted the addition. The relevant extract from the order of the Ld. CIT(A) is as under:

“10. In Ground No.6, the contention of the appellant is that the Assessing Officer has erred in assessing Rs.36,50,000/- as unexplained cash credit without even mentioning the name of the parties from whom the amount was received and the dates on which the amount/s were received.

10.1 In the assessment order, the operative paragraph that discussed the addition reads as under:

“None appeared on the date fixed for hearing neither was any submission of any manner filed to represent and explain the issues involved. Later, on 15/11/2019, the assessee company filed submission with some details along with the copy of the ITR for AY 2012-13 e-filed in respect of this office notice u/s 148 of the Act However, the submission filed by the assessee company has been considered but the assessee company has not been able to fully establish its contention to the contrary with full supporting documents and required explanations. In view of the above discussed facts of the case, the amount of Rs.36,50,000/- is hereby treated as the unaccounted money of the assessee which was routed into the regular books of the assessee through paper/jamakharchi companies.”

From the perusal of the above reproduced part of the assessment order, it is evident that the Assessing Officer has not brought out the details of bogus loss. There is no mention of other entities that may have been used for routing this money, how the loss has been adjusted and how the appellant layered this amount through different entities. In fact the entire discussion



is bereft of any discussion with regard to the modus-operandi and the set-off or claim of such loss.

10.2 The Assessing Officer has not been able to elucidate the method employed for generation of this loss and failed to give finding with respect to the various companies/entities that may have been party to this operation.

10.3 In view of absence of clear findings any elaboration with regard to the method by which the appellant was able to come upon this loss and how it was further utilized for his business gains, the addition cannot be sustained and is deleted.

11. In the result, the appeal is fully allowed.”

4. Aggrieved with the order of the Ld. CIT(A), the Revenue has filed the appeal before the Tribunal.

5. None appeared on behalf of the assessee and the case was heard with the assistance of the Ld. Sr. DR. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

6. It was informed to the Ld. DR during the course of the hearing that the assessment was reopened on the reason that the assessee company was beneficiary of ₹36,50,000/- by way of raising bogus loss through layering of funds through accounts of other companies during the FY 2011-12. However, the addition of ₹36,50,000/- was made on account of unaccounted money of the assessee which was created in the regular books of the assessee through paper/jamakharchi companies. The Ld. CIT(A) deleted the addition as the Assessing Officer (hereinafter referred to as Ld. 'AO') had not brought out the details of bogus loss and there is no mention of other entities that were used for routing this money and how the loss had been adjusted and how the assessee had layered this amount through different entities. In view of the Ld. CIT(A), the entire order is bereft of any discussion with regard to the modus operandi and the set off or claim of such loss. Since the



reasons on the basis of which the assessment was reopened were not having any live link with the issues nor do they spell out the details of the entities through whom the layering of the funds had been carried out, therefore, there is no justification for interfering with the findings of the Ld. CIT(A) in the absence of any further details/evidence and the decision of the Ld. CIT(A) is therefore affirmed and accordingly, the grounds of appeal of the Revenue are dismissed. The addition was deleted because the assessment order was a nonspeaking order and even the basic details of the names of the companies have not been mentioned. In fact, the assessment was reopened on the ground of bogus loss but the addition has been made on account of bogus cash credit. In fact, there is no additional evidence which has been accepted by the Ld. CIT(A), as is alleged in the ground of appeal but the appeal was allowed since the assessment order itself was sketchy, did not mention proper facts in support of the addition made and was is a nonspeaking order. Hence, Ground Nos. 1, 2 and 3 are dismissed. Ground No. 4 relates to the tax effect which does not require any separate adjudication. Ground No. 5 being general in nature does not require any separate adjudication.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open Court on 17th April, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 17.04.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **ITO, Ward-5(1), Kolkata.**
2. **M/s. Faithful Traders Private Limited, 21, Amartolla Street 4th Floor, Kolkata, West Bengal, 700001.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata