

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC" MUMBAI**

**BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 4294/MUM/2019
Assessment Year: 2010-11**

Maruti Jewels Pvt. Ltd.,
6th floor, 6170, Bharat
Diamond, Bourse, Tower No.
JE, BKC, Bandra (E),
Mumbai-400 051.
PAN No. AAECM 2549 R
Appellant

ITO 12(3)(3),
Vs. Room No. 224, 2nd floor,
Aayakar Bhavan, New Marine
Lines,
Mumbai-400 020.
Respondent

Assessee by : None
Revenue by : Ms. Smita Verma, DR

Date of Hearing : 16/02/2021
Date of pronouncement : 02/03/2021

ORDER

PER N.K. PRADHAN, A.M.

This is an appeal filed by the assessee. The relevant assessment year is 2010-11. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-20, Mumbai [in short 'CIT(A)'] and arises out of the assessment completed u/s 143(3) r.w.s. 147 of the Income Tax Act 1961, (the 'Act').

Though the case was fixed for hearing on 15.12.2020 and 16.02.2021, neither the assessee nor its authorized representative appeared before the Bench on the above dates. As there is non-compliance by the assessee, we are

proceeding to dispose off this appeal after examining the materials available on record and hearing the Ld. Departmental Representative (DR).

2. The grounds of appeal filed by the assessee read as under :

1. On the facts and circumstances of the Appellants case and in law the Ld. CIT(A) erred in dismissing the appeal filed providing an opportunity of being heard.
2. On the facts and circumstances of the Appellant's case and in law the Ld. CIT(A) erred in confirming the reopening of assessment u/s 147 by issue of notice u/s 148 which is merely due to change of opinion and therefore the reopening is bad in law.
3. On the facts and circumstances of the Appellant's case and in law the Ld. CIT(A) erred in confirming the reopening of assessment u/s 147 by issue of notice u/s 148 dated 09.06.2016 which is barred by limitation in view of the first proviso to section 147 of Income Tax Act, 1961.
4. On the facts and circumstances of the Appellant's case and in law the Ld. CIT(A) erred in confirming that the appellant has entered into accommodation transactions of Purchases with Shri Rajendra Jain Group. Sanjay Choudhary Group and Dharmichand Jain Group without any material evidence on record.
5. On the facts and circumstances of the Appellant's case and in law the Ld. CIT(A) erred in confirming the addition of Rs.1,15,895/- being alleged non-genuine purchases from M/s Kangan Jewels Pvt. Ltd. by invoking section 69C of the Income Tax Act, 1961. As per para 14 of the impugned order.

3. Briefly stated, the facts of the case are that the assessee filed its return of income for the assessment year (AY) 2010-11 on 30.11.2011 declaring total income at Rs.8,74,350/-. The Assessing Officer (AO) passed an order u/s 143(3) on 14.03.2013, assessing the total income at Rs.10,75,620/-. Subsequently, the AO received information from the Director General of Income Tax (Inv), Mumbai and Deputy Commissioner of Income Tax, Central

Circle-4, Surat that the assessee had taken accommodation entries on purchases. Accordingly, he issued notice u/s 148 dated 09.06.2016 to the assessee and passed an order dated 18.12.2017 u/s 143(3) r.w.s. 147 of the Act determining the total income at Rs.11,91,520/-.

4. Aggrieved by the order of the AO, the assessee filed an appeal before the Ld. CIT(A). We find that *vide* order dated 29.03.2019, the Ld. CIT(A) passed an *ex-parte* order dismissing the appeal. He has mentioned that though the case was fixed for hearing on 14.03.2019, 22.03.2019 and 28.03.2019, none appeared for the assessee. Reiterating the order of the AO, the Ld. CIT(A) dismissed the appeal filed by the assessee.

5. Before us, the Ld. DR supports the order passed by the Ld. CIT(A).

We have heard the Ld. DR and perused the relevant materials on record. In the instant case, the AO has made an addition of Rs.1,15,895/- treating it as on account of bogus purchases. There is no mention in the order of the Ld. CIT(A) whether the notices issued by his office fixing the case for hearing on 14.03.2019, 22.03.2019 and 28.03.2019 was received by the assessee or not. A notice intimating the date fixed for hearing is to be received by the assessee.

In view of the above facts, we set aside the order of the Ld. CIT(A) and restore the matter to him to pass a *de novo* order, after giving reasonable opportunity of being heard to the assessee. We direct the assessee to file the relevant documents/evidence before the Ld. CIT(A) on the date of hearing.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open Court on 02/03/2021.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai;

Dated: 02/03/2021

Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Assistant Registrar)
ITAT, Mumbai

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