

आयकर अपीलीय अधिकरण पुणे न्यायपीठ एक-सदस्य मामला पुणे में

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

सुश्री सुषमा चावला, न्यायिक सदस्य के समक्ष  
BEFORE MS. SUSHMA CHOWLA, JM

आयकर अपील सं. / ITA No.1200/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2013-14

M/s. Veepee Plastics Pvt. Ltd.,  
3/13, Vaswani Kunj,  
Sadhu Vaswani Road,  
Pune – 411001

.... अपीलार्थी/Appellant

PAN: AAACV6271B

Vs.

The Income Tax Officer,  
Ward 13(5), Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri P.D. Kudva

प्रत्यर्थी की ओर से / Respondent by : Shri Rajesh Gawali

सुनवाई की तारीख / Date of Hearing : 14.01.2019	घोषणा की तारीख / Date of Pronouncement: 08.02.2019
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

The appeal filed by assessee is against the order of CIT(A), Pune-5, Pune, dated 24.04.2018 relating to assessment year 2013-14 against order passed under section 143(3) of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee has raised the following grounds of appeal:-

*On the facts and circumstances of the case and in law,*

1. *The Hon. CIT(A) erred in concluding that the appellant was not keen in prosecuting the appeal before her. The appellant submits that his representative was present before the CIT(A) on the dates of hearing and*

*had also made oral submissions and had merely sought time to file written submissions in view of pressure of work. The appellant pleads that the CIT(A) erred in relying on case law not applicable to the facts of the appellants case and in dismissing the appeal ex-parte. It is prayed that the appeal filed before the CIT(A) be restored and be directed to be heard by the CIT(A) in accordance with law.*

2. *Without prejudice to the above, the appellant prays that the CIT(A) ought to have considered individual grounds of appeal on merits and allowed relief due as per law.*
3. *The appellant pleads that the Hon. I.T.A.T. dispose of the appeal on merits by considering individual grounds of appeal filed before the CIT(A) as under-*

*3.1 The AO erred in disallowing claim for indexed cost of improvement Rs.40,98,146 incurred towards electrical installations and MSEB deposits on grounds that evidence in the form of bills were not produced. The appellant pleads that its claim was supported by sufficient documentary evidence and that the disallowance made by the AO is not justified.*

*3.2 Without prejudice, the AO ought to have considered the carried forward loss of AY 2012-13 and set off the same while computing total income. The appellant pleads for directions to set off the said loss in computing total income for the year.*

*The appellant pleads that the action of the AO is not as per provisions of law and is invalid.*

3. The assessee is aggrieved by the order of CIT(A) in dismissing the appeal of assessee in *limine* by applying the ratio laid down by the Delhi Bench of Tribunal in CIT Vs. M/s. Multiplan India Pvt. Ltd. (1991) 38 ITD 320 (Del) and the Hon'ble Supreme Court in CIT Vs. B.N. Bhattacharjee & Anr. (1979) 10 CTR 354 : (1979) 118 ITR 461 (SC) and not deciding the issue on merits.

4. I find merit in the plea raised by the assessee where the CIT(A) has decided the issue *ex-parte* the assessee. On perusal of order of CIT(A), it is apparent that the appeal of assessee was dismissed for non appearance but the CIT(A) has failed to discuss the issue on merits and has dismissed the appeal in *limine* applying the ratio laid down in CIT Vs. M/s. Multiplan India Pvt. Ltd. (supra) and CIT Vs. B.N. Bhattacharjee & Anr. (supra).

5. Under the provisions of the Act, it is incumbent upon the CIT(A) to address the issue raised and in the absence of the same, order of CIT(A) suffers from infirmity. Accordingly, I set aside the order of CIT(A) and remit the issue back to the file of CIT(A), who shall decide the issue raised on merits after affording reasonable opportunity of hearing. The assessee is also directed to appear before the CIT(A) and furnish the requisite details and evidences, if any. The issue is not being addressed on merits as the matter is being set aside to the file of CIT(A). The additional ground of appeal raised by assessee is thus, allowed for statistical purposes.

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

Order pronounced on this 8<sup>th</sup> day of February, 2019.

**Sd/-**  
**(SUSHMA CHOWLA)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 8<sup>th</sup> February, 2019.

*GCVSR*

**आदेश की प्रतिलिपि अग्रहित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A), Pune-5, Pune;
4. The Pr.CIT-4, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे, एक-सदस्य मामला / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune