

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : G : NEW DELHI
(Through Virtual Court Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.7573/Del/2018
Assessment Year: 2014-15

Sahni Pipes P. Ltd.,
D-835, New Friends Colony,
New Delhi.

Vs ACIT,
Circle-22(1),
New Delhi.

PAN : AALCS7563G

(Appellant)

(Respondent)

Assessee by	:	Shri Pushparaj Kumar, CA
Revenue by	:	Shri Rajesh Kumar, Sr.DR
Date of Hearing	:	17.11.2020
Date of Pronouncement	:	17.11.2020

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 19th September, 2018 of the CIT(A), New Delhi, relating to assessment year 2014-15.

2. The assessee in its various grounds of appeal has challenged the *ex parte* order of the CIT(A) sustaining various additions made by the AO.

3. Facts of the case, in brief, are that the assessee is a company and filed its return of income on 28th June, 2015 declaring loss of Rs.1,20,92,632/-. The AO

completed the assessment u/s 143(3) r.w. section 144 of the Act at a total income of Rs.1,93,42,963/- wherein he made addition of Rs.3,14,35,595/- u/s 68 of the Act. In appeal, the Id.CIT(A) dismissed the appeal on account of non-appearance of the assessee by relying on the decision of the Honøble Supreme Court in the case of B.N. Bhattacharjee and Anr., 118 ITR 461 and the decision of the Honøble Bombay High Court in the case of Chemipol vs. Union of India in Excise Appeal No.62 of 2009.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

5. We have heard the rival arguments made by both the sides and perused the orders of the authorities below. We find, due to non-appearance by the assessee before the AO, he passed the order u/s 143(3) r.w. section 144 of the Act, determining the total income of the assessee at Rs.1,93,42,963/- as against loss of Rs.1,20,92,632/- wherein he made addition of Rs.3,14,35,595/- u/s 68 of the IT Act. We find, the Id.CIT(A) dismissed the appeal due to non-appearance by the assessee before him by relying on the decision of the Honøble Supreme Court in the case of B.N. Bhattacharjee and Anr. (supra) and the decision of the Honøble Bombay High Court in the case of Chemipol vs. Union of India (supra). However, he has not decided the appeal on merit which he is required to do. As per the provisions of the Income-tax Act, the Id.CIT(A) has to decide the appeal on merit and cannot dismiss the appeal on account of non-prosecution. Considering the

totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the CIT(A) with a direction to grant one final opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the Id. CIT(A) and substantiate its case, failing which the Id.CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Decision was pronounced on conclusion of Virtual Hearing on 17th November, 2020 itself.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 17th November, 2020.

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi