

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

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

ITA No. 2609/DEL/2019 (A.Y 2009-10)

(THROUGH VIDEO CONFERENCING)

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| Dasna Steels Pvt. Ltd. 108-019, Bahadur Shah Zafar Marg, New Delhi AACCD0398R (APPELLANT) | Vs | ITO Ward 7(2) Room No. 406, C. R. Building, I. P. Estate, New Delhi (RESPONDENT) |
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| Appellant by | None |
| Respondent by | Sh. Umesh Takyash, Sr. DR |

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| Date of Hearing | 17.11.2020 |
| Date of Pronouncement | 25.11.2020 |

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 04/09/2018 passed by CIT(A)-3, New Delhi for Assessment Year 2009-10.

2. The grounds of appeal are as under:-

“1. That the notice issued U/s 27IB and order imposing penalty of Rs.91,257.00 under said section are illegal, bad in law, and without jurisdiction.

2. That, the CIT (A) has erred in not considering the written submission filed through email, “delhi.cit.apl3@incometax.gov.in” and passed the

order in ex-party manner, which is highly arbitrary, unjustified and against the principle of natural justice.

3. That, the CIT (A) has failed to appreciate, the provision of section 271B are not applicable on the assessee appellant, because assessee has maintained proper books of account and accounts are also Audited by Chartered Accountant.

4. That, the CIT (A) has erred in not appreciating the facts and circumstances, that, the assessee company has maintained books of account U/s 44AA and Balance Sheet and Profit & Loss Account are audited U/s 44AB on dated 20.08.2009 through Chartered Accountant Shri Lalit Kumar, F.C.A. through its Partnership firm M/s Sanjay Lalit & Co., Photo copies of same have been filed before the assessing officer on 02.05.2017.

5. That in view of the facts and circumstance of the case the assessing officer has erred in law and on facts in not providing the proper opportunity of hearing, which is bad in law and against the principle of natural justice.

6. That in any case the penalty imposed is unjust, arbitrary and highly excessive.”

3. The assessee is engaged in manufacturing of steel. The return of income was e-filed on 03.10.2009 declaring an income of Rs. 3,62,051 u/s 115JB. The Assessing Officer passed assessment order dated 16.12.2016 thereby assessing the income of the assessee at 14,41,64,257/-. Thereafter, the Assessing Officer passed the penalty order dated 12.05.2017 under Section 271B of the Income Tax Act, 1961.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. None appeared at the time of hearing hence we are proceeding on the

basis of the records available before us.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard Ld. DR and perused the material available on record. It is pertinent to note that the CIT(A) has not given any categorical finding on merit of the case and dismissed the appeal on the ground of non-prosecution of appeal. It is also observed that the CIT(A) did not give sufficient opportunity of hearing to the assessee. Therefore, the CIT(A) was not right in dismissing the appeal of the assessee without giving proper opportunity of hearing. Hence, we are remanding back the entire issue to the file of the CIT(A) to be decided on merit. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on this 25th Day of November, 2020.

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 25/11/2020
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI