

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad
(Through Video Conferencing)
Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri A. Mohan Alankamony, Accountant Member

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| ITA No.2168/Hyd/2018 | | |
| Assessment Year: 2015-16 | | |
| Gangothri Nutrients & Fertilisers Pvt Ltd Hyderabad PAN:AAECG4191M | Vs. | Income Tax Officer, Ward 2(2) Hyderabad |
| (Appellant) | | (Respondent) |
| Assessee by: | Sri T. Chaithanya Kumar | |
| Revenue by: | Sri Sunil Kumar Pandey, DR | |
| Date of hearing: | 09/12/2020 | |
| Date of pronouncement: | 10/12/2020 | |

ORDER

Per A. Mohan Alankamony, A.M

This is assessee's appeal for the A.Y 2015-16 against the order of the CIT (A)-6, Hyderabad in appeal No.10030/2018-19/B2, dated 10.08.2018

2. Brief facts of the case are that the assessee company is engaged in the business of manufacturing granulated soil conditioners, filed its return of income for the A.Y 2015-16 on 21.09.2015, admitting a total loss of Rs.2,84,73,397/-. The return was selected through CASS and a notice u/s 143(2) was issued to the assessee on 13.04.2016. In response to the notice, the ass filed power of attorney and copies of balance sheet and P&L A/c along with annexures. Noticed u/s 142(1) was issued to the assessee on 17.5.2017, notice u/s 143(2) r.w.s. 129 were

issued to the assessee on 16.06.2017 and on 29.08.2017 due to change in jurisdiction. In response to notice issued on 29.8.2017, the Ld.A.R. of the assessee appeared on 11.09.2017 and requested time for furnishing certain details. Thereafter the case was posted for hearing on 20.09.2017. However none appeared on the above date. Subsequently, the Ld.AR and the Finance Manager of the assessee appeared on 10.10.2017 and filed partial details. The Ld.AR once again requested for time to furnish the details of share application money and produce books of account for verification. The case was posted for hearing on 23.10.2017. Nevertheless, none appeared on that date. A final notice u/s 142(1) was issued on 20.11.2017 proposing to complete the assessment u/s 144 of the IT Act clearly mentioning that if the assessee failed to furnish any objections for the proposed additions/disallowances, the case will be completed ex-parte u/s 144 of the I.T. Act. Since no response was received, the AO completed the assessment ex-parte u/s 144 of the I.T. Act.

3. Aggrieved by the order of the AO, the assessee preferred appeal before the learned CIT (A) who dismissed the appeal of the assessee for non-prosecution since neither the assessee nor the Ld.AR appeared before the Ld.CIT(A). Aggrieved, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

"1) The learned Commissioner of Income-tax (Appeals) is erroneous, illegal and held contrary to the facts of the instant case.

2) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the assessing officer passed order u/s 144 of the I.T act without giving any further opportunity.

3) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the assessing officer in treating an amount Rs 3,78,50,344/undisclosed income

u/s 68 of the I.T Act without giving any further opportunity.

4) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the assessing officer an amount of Rs 20,00,364/- current liabilities treating as undisclosed income of the appellant.

5) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the assessing officer in disallowing expenses an amount of Rs 47,24,094 i.e 10% on total expenses without giving any further opportunity.

6) The learned Commissioner of Income-tax (Appeals) erred in determining the total income at Rs.1,61,01,405/- as against the Loss admitted of Rs.(2,84,73,397/-) without considering the appellant's submissions.

7) Any other grounds/ground may be urged at the time of hearing”.

4. The Ld. AR submitted before us that both the Revenue Authorities have not given proper opportunity to the assessee of being heard. Therefore, it was prayed that the appeal may be remitted back to the Ld. AO for denova consideration. On the other hand, the Ld. AR vehemently argued that the Revenue Authorities have provided proper opportunities to the assessee, however, neither the assessee nor its Counsel cooperated before the Ld. Revenue Authorities. It was therefore, pleaded that the orders of the Ld .Revenue Authorities may be confirmed.

5. Having regard to the rival contentions and the material placed on record, we find that though several opportunities were provided to the assessee to submit the details before the Ld.AO and the Ld.CIT (A) the assessee failed to do so. Therefore, we do not find much strength in the submissions of the Ld.AR. However, considering the prayer of the learned AR and in the interest of justice, we hereby remit the matter back to the file of the learned AO for fresh consideration and in order to pass appropriate Order

in accordance with merit and law after affording proper opportunity to the assessee of being heard and after admitting and examining fresh evidence filed by the assessee if any. We also hereby direct the assessee to promptly cooperate before the Revenue Authorities in their proceedings failing which they shall be at liberty to complete the proceedings in accordance with law and on merits.

6. In the result, appeal of the assessee is treated for statistical purposes as mentioned herein above.

Order pronounced in the Open Court on 10th December, 2020.

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| Sd/- (P.MADHAVI DEVI) JUDICIAL MEMBER | Sd/- (A. MOHAN ALANKAMONY) ACCOUNTANT MEMBER |
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Hyderabad, dated 10th December, 2020.

Vinodan/sps

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- 2 ITO Ward 2(2) Hyderabad
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- 4 Pr. CIT – 2 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order