

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'G': NEW DELHI
(Through Video Conferencing)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No.1605/Del/2017
Assessment Year : 2012-13**

M/s Shankar Twine Products P. Ltd. 500, Lal Katra, Khaori Baoli, Delhi-110006 PAN-AAJCS2948D	Vs.	DCIT, Circle-23(1), Delhi
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(Appellant)

(Respondent)

Appellant by	:	None
Respondent by	:	Sh. Prakash Dubey, Sr. DR

Date of hearing	:	24.03.2021
Date of pronouncement	:	24.03.2021

ORDER

PER R.K. PANDA, AM :

This appeal filed by the assessee is directed against the order dated 15.12.2016 of the learned CIT(A)-8, New Delhi, relating to Assessment Year 2012-13.

2. The grounds raised by the assessee are as under:-

- i. *That the Ld. CIT (Appeals) was not justified in dismissing the appeal of the appellant.*
- ii. *That the Ld. CIT(Appeals) acted arbitrarily in upholding the levy of penalty of Rs.7,26,984/- which is unjustified and uncalled for.*
- iii. *That the Ld. CIT(Appeals) was not justified in not giving due credence to the explanation tendered by the appellant.*

- iv. That the Ld. CIT(Appeals) failed to appreciate that there was sufficient cause for not appearing on the date of hearing.*
- v. That the Ld. CIT(Appeals) is bad in law, on facts & under the circumstances of the case.”*

3. Facts of the case, in brief, are that the assessee is a company and filed its return of income on 29.09.2012 declaring total income of Rs.(-) 4,90,04,199/-. The Assessing Officer completed the assessment under section 143(3) of the Income Tax Act, 1961 (in short 'the Act') on 16.03.2015 determining the total loss of Rs.(-)4,66,51,500/-, wherein, he disallowed the claim of loss on sale of machinery of Rs.23,52,700/-. The Assessing Officer thereafter, initiated penalty proceedings under section 271(1)(c) of the Act holding that the assessee has furnished inaccurate particulars of income and levied penalty of Rs.7,26,984/-. Since, the assessee did not appear before the CIT(A) despite a number of opportunities granted, learned CIT(A), in the ex-parte order passed by him, sustained the penalty so levied by the Assessing Officer.

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

5. None appeared on behalf of the assessee despite issue of notice on a number of occasions. Therefore, we deem it proper to decide the appeal on the basis of material available on record and after hearing the learned DR.

6. As mentioned earlier, the assessee did not appear before the CIT(A) despite three opportunities granted by him for which he was constrained to decide the appeal ex-parte. However, it also to be noted that the learned CIT(A) has decided the appeal on merit. Since, the assessee did not appear

before us today despite notice through RPAD, therefore, considering the totality of facts of the case and in interest of justice, we deem it proper to restore the appeal to the file of CIT(A) with a direction to grant final opportunity to the assessee to substantiate its case and decide the issue as per fact and law subject to payment of Rs.500/- cost by the assessee. The grounds raised by the assessee are accordingly allowed for statistical purpose.

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

Oder pronounced in the open court at the time of hearing itself i.e. on 24.03.2021.

Sd/-

(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Delhi/Dated- 24.03.2021

Shekhar

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Copy forwarded to: -

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

By Order

Assistant Registrar,
ITAT, Delhi