

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH,
PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER AND
DR.DIPAK P.RIPOTE, ACCOUNTANT MEMBER

आयकरअपीलसं. / ITA No.2058/PUN/2019
निर्धारण वर्ष / Assessment Year: 2015-16

Alpha Flock India Pvt. Ltd., 2 nd Floor, B.O.Bhavan, Sector No.17, Plot No.1, Pune Satara Road, Parvati, Pune – 411009. PAN: AACCA 6804 H	Vs	The Assistant Commissioner of Income Tax(International Taxation)-1, Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri BB Mane – AR
Revenue by	Shri S P Walimbe – DR
Date of hearing	10/06/2022
Date of pronouncement	15/06/2022

आदेश / ORDER

PER S.S.Godara, JM:

This assessee's appeal for the A.Y. 2015-16 is directed against the Id.Commissioner of Income Tax(Appeals)-13, Pune's order, dated 19.09.2019 passed in case no.PN/CIT(A)-13/ACIT, Circle (IT)-1, Pune/24/2017-18/318 involving proceedings u/s 143(3) of the Income Tax Act, 1961 in short "the Act".

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the case as follows:

"Insufficient Opportunity

1. *The Learned Commissioner of Income Tax Appeal (Ld.CIT(A)) erred under circumstances and facts of the case and in law by*

confirming Learned Assessing Officer's (Ld.AO) Assessment order of disallowances of deduction under section 80IA(1) of the Income Tax Act 1961 of Rs.5,92,548/-, as the deduction is eligible only to the extent of the Profit from the said business only.

2. *The Ld. CIT(A) erred under circumstances and facts of the case and in law by not providing reasonable opportunity to appellant to submit sufficient reasons and proper material to rebut show cause notice issued to appellant and to further substantiate evidences.*

3. *On the fact and circumstances of the case the Ld. CIT(A) erred by not appreciating the fact that appellant has incurred Administrative & Selling expenses of Rs.1,30,892/- to earn Income and Ld. AO has illegally disallowed expenses to that extend.*

Relief prayed

Addition effected on the basis of that the appellant is not eligible deduction under section 80IA(1) of the Act of Rs.5,92,548/- and genuine business expense of Rs.1,30,892/- be pleased to be allowed and set aside Ld. CIT(A)'s order."

3. Coming to the first and foremost issue of insufficient opportunity before the CIT(A) raised at the assessee's behest, we note with the able assistance of both the parties that the impugned lower appellate discussion in para 1.4 as tabulated a chart of the five hearing opportunities given without any indication of actual service of notices on the assessee. This is coupled with the fact that the CIT(A)'s has nowhere adjudicated the assessee's substantive grievances by framing issues for determination followed his detailed discussion as contemplated under section 250(6) of the Act. We, therefore, restore all these substantive issue raised herein back to the CIT(A) for his afresh

adjudication as per law within three effective opportunities of hearing.

Ordered accordingly.

4. This assessee's appeal is allowed for statistical purpose in above terms.

Order pronounced in the open Court on 15th June, 2022.

Sd/-
(DIPAK P.RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(S S GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 15th June, 2022/ SGR*

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A) concerned.
4. The Pr. CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकरअपीलीयअधिकरण, पुणे/ITAT, Pune.