

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC-3” BENCH, AHMEDABAD
BEFORE SHRI P.M. JAGTAP, VICE-PRESIDENT
AND MS. MADHUMITA ROY, JUDICIAL MEMBER

ITA No. 2/Ahd/2022
Assessment Year : 2018-19

Utkranti Solutions Pvt. Ltd., A/46, 3 rd Floor, 'Nobles', Opp. Nehru Bridge, Ashram Road, Ahmedabad-380009 PAN : AABCU 1620 L	Vs	Income Tax Officer, Ward 4(1)(4), Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Hemanshu Shah, CA
Revenue by :		Shri Rakesh Jha, Sr. DR

सुनवाई की तारीख/Date of Hearing : 15/07/2022
घोषणा की तारीख /Date of Pronouncement: 20/07/2022

आदेश/O R D E R

PER P.M. JAGTAP, VICE-PRESIDENT :

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [“CIT(A) in short]” dated 23.11.2021 passed *ex parte* dismissing the appeal of the assessee for non-prosecution.

2. The assessee, in the present case, is a company which filed its return of income for the year under consideration on 25.09.2018 declaring a total income of Rs.2,40,191/-. The said return was processed by the CPC, Bangalore; and, in the intimation issued under Section 143(1) of the Income-tax Act, 1961 (“the Act” in short) on 27.12.2019, the total income of the assessee was determined at Rs.30,31,250/- after making certain additions.

3. Against the intimation/order passed under Section 143(1) of the Act, an appeal was preferred by the assessee before the learned CIT(A) on the following grounds:-

"1. In law and in facts and circumstances of the Appellant's case, the learned Assessing Officer has grossly erred in points of law and facts.

2. *In law and in facts and circumstances of the Appellant's case, the learned Assessing Officer has grossly erred in not issuing refund determined for Rs.64,482/-.*

3. *In law and in facts and circumstances of the Appellant's case, the learned Assessing Officer has grossly erred in making disallowance of delay in contribution to Provident fund Rs. 18,49,318/- and to ESI for Rs. 2,46,708/-.*

4. *In law and in facts and circumstances of the Appellant's case, the learned Assessing Officer has grossly erred in adding GST of Rs. 11,75,412/-.*

5. *In law and in facts and circumstances of the appellant's case, the learned Assessing Officer has grossly erred in not granting credit of TDS Rs.87,421/-.*

6. *Your appellant craves liberty to add, alter, amend all or any of the above grounds of appeal as may be advised from time to time."*

4. The appeal filed by the assessee was fixed for hearing by the learned CIT(A) on 17.09.2020, 19.01.2021 and 15.11.2021, and since there was no satisfactory compliance on the part of the assessee to the notices issued fixing the said hearing, the learned CIT(A) dismissed the appeal of the assessee for non-prosecution vide its appellate order dated 23.11.2021 passed *ex parte*. Aggrieved by the order of the learned CIT(A), the assessee has preferred this appeal before the Tribunal.

5. We have heard the arguments of both the sides and also perused the relevant material available on record. In support of the preliminary issue raised by the assessee in its appeal challenging the impugned order passed by the learned CIT(A) *ex parte*, the learned Counsel for the assessee has submitted that an application was filed by the assessee on 15.11.2021 seeking adjournment of the hearing fixed on the said date. He has submitted that the learned CIT(A), however, did not consider the said application and proceeded to dismiss the appeal of the assessee for non-prosecution vide his impugned order passed *ex parte*. He has contended that the appeal of the assessee thus is dismissed by the learned CIT(A) without giving proper and sufficient opportunity of being heard to the assessee and there is a clear violation of principle of natural justice. Even the learned DR has not been able to dispute this position which is clearly evident from the record. We, therefore, consider it fair and proper and in the interest of justice

to set aside the impugned order passed by the learned CIT(A) *ex parte* and remit the matter back to him for disposing of the appeal on merit in accordance with law after giving a proper and sufficient opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on 20th July, 2022 at Ahmedabad.

Sd/-

(MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad, Dated 20/07/2022

✍

Sd/-

(P.M. JAGTAP)
VICE-PRESIDENT

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधिआयकर अपीलीय अधिकरण ,/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

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आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Ahmedabad