



॥ आयकर अपीलीय न्यायाधिकरण, पुणे "ए" न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "A" BENCH, PUNE

BEFORE SHRI SS VISHWANETHRA RAVI, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.579/PUN/2019

निर्धारण वर्ष / Assessment Year : 2008-2009

DGM Tubes Pvt. Ltd.

B/13, Sanghvi Street Compound,

128/3, Mohan Nagar, Chinchwad, Pune.

PAN: AACCD5626N

..... अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,

Ward-8(4), Pune

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : Shri V. L. Jain

Revenue by : Shri Ramnath Murkude

सुनवाई की तारीख / Date of conclusive Hearing : 11/10/2022

घोषणा की तारीख / Date of Pronouncement : 11/10/2022

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

By the present appeal, the assessee challenged the order of Commissioner of Income Tax (Appeals)-13, Pune [for short "**CIT(A)**"] dt. 3101/2019 passed u/s 250 of the Income-tax Act, 1961 [for short "**the Act**"], which flown out of assessment order dt. 26/02/2016 passed u/s 143(3) r.w.s. 147 of the Act, by the Income Tax Officer, Ward-8(4), Pune [for short "**AO**"] for assessment year [for short "**AY**"] 2008-09.



2. The solitary controversy under the present appeals gyrates around the attraction of provisions of section 68 to the accommodation credit entries recorded.

3. Before proceeding to factual matrix, it is necessary to state the ground agitated by the appellant are;

“1. The ld. AO erred in law and on facts in assuming jurisdiction u/s 148 of Income Tax Act, 1961.

2. The ld. CIT(A) has erred in law and on facts in confirming the addition of Rs. 51,66,509/- u/s 68 of the Income Tax Act, 1961 treating the same as bogus / unclaimed cash credit.

3. The appellant craves leave to add or amend or alter any of the grounds of appeal or add to the same, if deemed necessary.”

4. During the course of physical hearing, the learned counsel representing the assessee [for short **“AR”**] without going into facts and grounds of appeal raised, at the outset adverting para 1.5 of the first appellate order entreated that, the appellant could not represent its case before the first appellate authority [for short **“FAA”**] consequently the appeal was dismissed ex-parte and hence in the larger interest matter requested for remand



back for fresh adjudication. **Per contra** the learned department representative [for short "**DR**"] without controverting the factual position, strongly contended that, the appellant was put to notice on several occasion & more particularly in as many as ten hearing opportunities were accorded by the Ld. FAA, which remained unattended by the appellant, this showcased a deliberate act on there part, and since appellant is casual in approach by adopting delay-dilute-delete [for short "**3D**"] technic, deserves no further opportunity.

5. Though the assessee has raised several grounds of appeal contesting addition, the primary ground raised during the hearing that, the Ld. FAA has passed an ex-parte order without granting sufficient opportunity, on perusal of the order of FAA however, we find that fair opportunities were indeed given to the appellant for representation which were not complied. The Ld. AR before us prayed for one final opportunity to represent before FAA and assured that, the appellant shall not seek any adjournment on remand back and further would co-operate in the early disposal of the appeal.



6. Since Ld. FAA has passed an ex-parte order, we in the larger interest of justice find this case fit for remanding back to the file of Ld. FAA for providing one more effective opportunity to the appellant to represent, and while doing so we also direct the appellant to co-operate for expeditious disposal seeking no adjournment. In view of this decision, all the grounds raised by the assessee are left open for **de-novo** adjudication in the light of applicable provision of then law in force.

7. Resultantly, the appeal of the assessee is allowed in aforesaid terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday 11th day of October, 2022.

-S/d-

SS VISHWANETHRA RAVI
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 11th day of October, 2022.

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-, Pune (MH-India)
4. The CIT(A)-13, Pune (MH.-India)
5. DR, ITAT, Pune Bench 'A', Pune
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.