

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

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

आयकर अपील सं. / ITA No.915/PUN/2019
निर्धारण वर्ष / Assessment Year : 2011-12

M/s.Acclaim Industries Limited, 207, Shivaji Industrial Estate, Andheri Kurla Road, Saki Naka, Andheri(East), Mumbai – 400072. PAN: AAACM 7494 B	Vs	The Additional Commissioner of Income-tax, Range - 9, Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Prateek Jha - AR
Revenue by	Shri Sardar Singh Meena - CIT
Date of hearing	26/07/2022
Date of pronouncement	17/10/2022

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the Assessee is directed against the order of ld.Commissioner of Income Tax(Appeals)-9, Pune, dated 05.06.2017 for the A.Y. 2011-12. The assessee has raised the following grounds of appeal:

“1 (i) *The Ld CIT(A) erred in upholding the assessment made ex-parte u/s.144 ignoring the fact that the Ld AO had not considered the Financial Statements which were duly audited.*

1 (ii) *The Ld CIT(A) erred in deciding the assessee’s appeal without obtaining the report of the Ld AO whom he had forwarded the Additional Evidences for verification and report.*

2(i) *The Ld.CIT(A)erred in confirming the estimation of net profit at the rate of 5% of gross sale without appreciating that the books of account were duly audited and the estimation of profit was made without any basis and arbitrarily.*

- Rs.2,80,69,590/-

2(ii) *The Ld.CIT(A)erred in upholding the estimation of net profit at the rate of 5% of sales which was highly excessive in the line of business which the assessee was carrying on.*

3 *The Ld CIT(A) erred in upholding the addition of Rs.26,40,01,300/- made u/s 68 of the IT Act without considering the fact that the loans were taken through bank and were genuine.*

- Rs.8,71,20,429/-

4. *The Ld.CIT(A)erred in sustaining the addition of Rs.3,75,95,551/- made u/s 69 in respect of investment in immovable properties the consideration for which was paid through bank and was reflected in the books of account which were audited.*

- Rs.1,24,06,532/-

5. *The Ld.CIT(A)erred in upholding the addition of Rs.16,78,960/- made in respect of amount received from M/s Puranik Builders Pvt. Ltd. Without appreciating the facts of the case property.*

- Rs.5,54,057/-

6. *The Ld.CIT(A) erred in upholding the addition of Rs.66,00,000/- made as capital gains without appreciating that this amount represented the entire sale consideration and was not capital gains or profit on sale.*

- Rs.21,78,000/-

7. *The appellant craves leave to furnish Additional Evidences which may be relevant to the above Grounds of Appeal, in course of the appeal proceedings.*

8. *The appellant craves leave to amend or alter any of the above Grounds of Appeal or to add new Grounds of Appeal during the course of appeal proceedings.”*

2. Brief facts of the case as emanating from the Assessment order and Order of Ld.CIT(A) is that the assessee filed return of Income on 28/09/2011 declaring NIL income. During the scrutiny proceedings Assessing Officer (AO) observed that assessee has shown unsecured loan of Rs.26,40,01,300/- from various parties. The AO called for information u/s 133(6) of the Act from these lenders to verify the

genuineness of the loan and creditworthiness of the parties. All the letters were returned unserved. The AO issued show cause to the assessee. The assessee failed to reply to the show cause notice. Therefore, the AO made the addition u/s 68 of the Act. There are other additions also. AO passed the assessment order u/s 144 of the Act. Aggrieved by the Order of the AO, the assessee filed appeal before the Commissioner of Income Tax(Appeal). The Ld.CIT(A) gave 9 opportunities to the assessee, but assessee neither appeared before the Ld.CIT(A)nor filed any submission. On 26/10/2016, the AR of the assessee filed certain documents before the Ld.CIT(A) and requested for admission of additional evidence under Rule 46A. The CIT(A) refused to admit the additional evidence and dismissed the appeal. Aggrieved by the order of the Ld.CIT(A) , the assessee has filed appeal before this tribunal.

3. The assessee had received the Order of the Commissioner of Income tax(Appeal) on 08/08/2017 and assessee filed appeal before this tribunal on 14/06/2019. Thus, there is delay of more than 500 days. The assessee filed a notarized affidavit along with the appeal requesting for condonation of delay. The reasons mentioned in the affidavit are that the assessee company had changed the Office many a times and Mr.Pandurang Navgane who looks after the income tax matters kept the order of the ld.CIT(A) in a file without showing it to the directors of the company.

4. We heard both the parties and perused the records. There is no sufficient reason for such an inordinate delay in filling an appeal. The reason is very vague and general. In the affidavit it is mentioned that Mr.Pandurang Navgane who looks after the income tax matters kept the order of the Id.CIT(A) in a file without showing it to the directors of the company. The assessee has not filed affidavit of Mr. Pandurang Navgane to prove the claim of the assessee. In this fact and circumstances of the case, we are of the opinion that there was no sufficient cause for such an inordinate delay in filling the appeal before this Tribunal. Hence, the delay is not condoned. Therefore, grounds of appeal raised by the assessee are dismissed.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on 17th October, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 17th October, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / 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. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.