

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
**Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No.809/Chny/2022
निर्धारण वर्ष/Assessment Year: 2013-14

M/s. Sudharsan Logistics Private Ltd.,
New No. 24 & 25, S T Tower, Parrys,
Chennai 600 001.

Vs. The Assistant Commissioner of
Income Tax,
Non Corporate Circle 18,
Chennai.

[PAN:AAACS8428K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by

: Shri R. Vijayaraghavan, Advocate &
Shri Saroj Kumar Parida, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/ Date of hearing

: 26.10.2022

घोषणा की तारीख /Date of Pronouncement

: 28.10.2022

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi, dated 25.07.2022 relevant to the assessment year 2013-14.

2. The appeal filed by the assessee is delayed by three days in filing the appeal before the Tribunal. The assessee has filed a condonation petition in the form of an affidavit to condone the delay. Since the

assessee was prevented by sufficient cause and the Id. DR has not made any serious objections, the delay in filing of the appeal stands condoned and admitted the appeal for adjudication.

3. Brief facts of the case are that the assessee filed its return of income on 31.10.2013 admitting total loss of ₹.2,55,83,275/-. After following due procedures, the Assessing Officer has completed the assessment under section 143(3) of the Income Tax Act, 1961 ["Act" in short] dated 31.03.2016 by making disallowance under section 14A r.w. Rule 8D for ₹.11,75,118/-. On appeal, by order dated 26.09.2018, the Id. CIT(A) directed the Assessing Officer to verify the 26AS statements of the assessee and give credit of the prepaid taxes after verification and confirming the correctness of the prepaid taxes. The Assessing Officer, by following the above directions of the Id. CIT(A), by order dated 13.02.2019, observed and held as under:

The Id. CIT(A) vide order mentioned above directed to verify the 26AS statement and give credit of the prepaid taxes after verification. In this regard the assessee was given an opportunity to appear with relevant documents in support of his claim on 06.02.2019. But it is seen from the office records that neither the assessee nor any authorized representative of the assessee arrived for hearing. Hence, giving effect to the CIT(A)'s order dated 26.09.2018 referred above the assessment order u/s 143(3) of the Income Tax Act 1961, dated 31.03.2016 is hereby passed as under:

<i>Particulars</i>	<i>Amount (in INR)</i>
<i>Assessed income as per the assessment order u/s 143(3) dated 31.03.2016</i>	<i>₹.(-)2,44,08,157/-</i>
<i>Less: Relief allowed by CIT(A)</i>	<i>₹.Nil</i>
<i>Total income assessed as per this order</i>	<i>₹.(-)2,44,08,157/-</i>

The assessee carried the matter in appeal before the Id. CIT(A). The Id. CIT(A) dismissed the appeal of the assessee as not maintainable.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By filing reconciliation statement of books of accounts with Form 26AS, the Id. Counsel for the assessee has submitted that the assessee could not appear and furnish the details before the Assessing Officer to substantiate his case due to the circumstances beyond his control and the non-appearance is neither wilful nor wanton. Thus, the Id. Counsel for the assessee prayed for one more opportunity may be given to the assessee to substantiate his case before the Assessing Officer.

5. On the other hand, the Id. DR relied upon the orders of authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the order of the Assessing Officer giving effect to the order of the Id. CIT(A) dated 26.09.2018, by given one opportunity on 06.02.2019, the Assessing Officer hurriedly concluded the order dated 13.02.2019 by confirming the original assessment order passed under section 143(3) of

the Act dated 31.03.2016 without any verification of pre-paid taxes and the Id. CIT(A) has not examined the actual facts. In view of the above, we are of the considered opinion that one more opportunity should be given to the assessee to substantiate his case before the Assessing Officer in the interest of natural justice. Accordingly, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to verify 26AS statement and give credit of the prepaid taxes after verification and decide the issue afresh in accordance with law. We also direct the assessee to appear before the Assessing Officer to explain his case with supporting evidences.

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

Order pronounced on 28th October, 2022 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 28.10.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.