

आयकर अपीलीय अधिकरण
गुवाहाटी 'डीबी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI 'DB' BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री संजय गर्ग, न्यायिक सदस्य
एवं
डॉ. मनीष बोर्ड, लेखा सदस्य
के समक्ष
Before

**SH. SANJAY GARG, JUDICIAL MEMBER
&
DR. MANISH BORAD, ACCOUNTANT MEMBER**

**I.T.A. No.: 180/Gty/2020
Assessment Year: 2018-19**

***Shivdham Industries P. Ltd.....Appellant
[PAN: AACCS 6350 G]***

Vs.

DCIT, CPC, Bengaluru.....Respondent

Appearances by:

Sh. Dindayal, Dhandaria, FCA, appeared on behalf of the Assessee.

Smt. I. Gyaneshori Devi, JCIT, appeared on behalf of the Revenue.

Date of concluding the hearing : November 9th, 2022

Date of pronouncing the order : January 2nd, 2023

**आदेश
ORDER**

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2018-19 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the

“Act”) by ld. Commissioner of Income-tax (Appeals), Dibrugarh [in short ld. “CIT(A)”] dated 09.09.2020 arising out of the assessment order framed u/s 143(1) of the Act dated 13.11.2019.

2. The assessee is in appeal before the Tribunal raising the following grounds:

“1. In the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) was not justified in holding that the Appellant did not press Ground no. 3.

2. The appellant craves the leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal.”

3. The sole ground raised by the assessee is that ld. CIT(A) was not justified in holding that the appellant did not press ground no. 3 raised in the appeal before ld. CIT(A).

4. We have heard rival contentions and perused the records placed before us. It has been stated before us by the ld. Counsel for the assessee that in the return of income filed in Form no. ITR-6 in Schedule CFL, the assessee has furnished “details of loss to be carried forward to future years” totalling to Rs. 82,89,050/- which included the brought forward losses from earlier years totalling to Rs. 75,33,200/- and balance for current year. It was further stated that in the return processed u/s 143(1) of the Act such claim of brought forward loss and current year loss was not allowed and for the proposed adjustments Centralized Processing Centre did not provide any opportunity before making the said adjustments as provided under the proviso to Section 143(1)(a) of the Act. After hearing ld. Counsel for the assessee and on perusal of the impugned order we find force in the contention of the ld. Counsel for the assessee that reasonable opportunity was not

provided to the assessee before declining the claim and thus, restore this issue of claim of brought forward loss to be carried forward to future years as well as loss of current year to be carried forward for set off in the future years to ld. CIT(A) for necessary adjudication and to pass a speaking order on this issue. Further, the assessee is also directed to furnish all relevant details which it had mentioned in the written submission placed before ld. CIT(A) agitating ground no. 3 relating to disallowance of losses. Needless to mention that proper opportunity of being heard should be provided to the assessee. Thus, ground no. 1 is allowed for statistical purposes.

5. Ground no. 2 is general in nature which needs no adjudication.

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

Kolkata, the 2nd January, 2023

Sd/-
[Sanjay Garg]
Judicial Member

Sd/-
[Manish Borad]
Accountant Member

Dated: 02.01.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Shivdham Industries P. Ltd., L.G. Complex, A.T. Road, P.O. Tinsukia-786 125.**
- 2. DCIT, CPC, Bengaluru.**
3. CIT(A), Dibrugarh.
4. CIT-
5. CIT(DR), Guwahati Bench, Guwahati.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata