

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.429/Ind/2022
(Assessment Year:2009-10)

M/s. C I Finlease Private Ltd. 182, Zone-1, M.P. Nagar Bhopal	vs.	ACIT-1(2) Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AABCC 6164 B		
Assessee by	Shri Rakesh Kumar Mangal, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	20.04.2023	
Date of Pronouncement	02.05.2023	

O R D E R

Per Vijay Pal Rao, JM:

This appeal by the assessee is directed against the order dated 11.11.2022 of Ld. Commissioner of Income Tax (Appeals) (in short Ld. CIT(A), National Faceless Appeal Centre, Delhi for Assessment Year 2009-10. The assessee has raised following grounds of appeal:

1. That the learned CIT(A) NFAC erred in not holding that the assessment order was bad in law. It was perverse; (2) it was based on irrelevant material; (3) it was un-reasonable; (4) there was mis-application of the provisions of law; (5) the authority misdirected.

2. That the learned CIT(A) NFAC erred in not holding that the assessment order passed by the A.O. was without following rule of natural justice and fair play and was therefore a nullity and the same may be declared null and void.

3. That the learned CIT(A) NFAC erred in passing of an Ex-party Order without allowing any more time. The Appellant Company has changed its Counsel and the mail was not attended by the previous Counsel. Further, the date of hearing was fixed for 27/10/2022 which was during the festival of Deepawali.

4. That the learned CIT(A) erred in maintaining addition of Rs.34,64,131/- on account of interest paid to Hyundai Motor India Ltd.

2. At the time of hearing Ld. AR of the assessee has submitted that Ld. CIT(A) has dismissed the appeal in default due to non-submission of response by the assessee. He has referred to the impugned order of the Ld. CIT(A) and submitted that only two notices dated 18.02.2021 and 12.10.2022 were issued before the impugned order was passed and there was a gap of more than 1½ years when the second notice was issued by the Ld. CIT(A) and that too on the IT Portal. Therefore, in the absence of any notice on physical mode there was a confusion regarding the date of hearing and assessee was not aware about the second notice issued by the Ld. CIT(A). Ld. AR has submitted that in the facts and circumstances of the case the impugned order of the Ld. CIT(A) may be set aside and assessee may be granted one more opportunity to present its case before the Ld. CIT(A).

3. On the other hand, Ld. DR has fairly submitted that since the Ld. CIT(A) has dismissed the appeal of the assessee for non-prosecution therefore, the matter may be remanded to the record of the Ld. CIT(A) for fresh adjudication.

4. Having considered the rival submission and perusal of the impugned order, we find that the Ld. CIT(A) has dismissed the appeal of the assessee summarily due to non-submission of the reply and documentary evidences in support of the grounds of appeal of the assessee. Ld. CIT(A) has stated in the order that initially a notice was issued on 19.02.2021 and thereafter there was a change of incumbent in the office of the Ld. CIT(A) and consequently another notice dated 12.10.2022 was issued for the hearing on 27.10.2022. Thus, it is clear that the second notice was

issued after a gap of more than 1 ½ year through the I.T. Portal of the Department. Therefore, in the facts and circumstances of the case when appeal of the assessee was dismissed by the Ld. CIT(A) summarily for want of reply and documentary evidences then we are of the considered opinion that the assessee deserves one more opportunity of hearing to present its case before the Ld. CIT(A). Accordingly, the impugned order of the Ld. CIT(A) is set aside and the matter is remand to the record of the Ld. CIT(A) for deciding same afresh after giving opportunity of hearing to the assessee.

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

Order pronounced in the open court on 02.05.2023.

Sd/-

(B.M. BIYANI)
Accountant Member

Indore, 02.05.2023

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

(VIJAY PAL RAO)
Judicial Member

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*