

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri K. Narasimha Chary, Judicial Member

ITA No.197/Hyd/2023		
Assessment Year: 2018-19		
M/s. Alkor Petroo Ltd Hyderabad PAN:AADCA9825D	Vs.	Dy. C. I. T. Circle 1(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Advocate T. Chaitanya Kumar	
Revenue by:	Shri P. Chandrasekhar, CIT(DR)	
Date of hearing:	10/05/2023	
Date of pronouncement:	10/05/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the ex-parte order dated 15.03.2023 of the learned CIT (A)-NFAC, Delhi relating to A.Y.2018-19.

2. Facts of the case, in brief, are that the assessee company is engaged in the business of extraction of crude oil. It is also subsidiary company of M/s. IVRCL Ltd (under liquidation as going concern as per the Corporate Insolvency Resolution Process (CIRP). It filed its return of income on 14.8.2018 declaring total loss of Rs.14,01,951/-. The case was selected for scrutiny under CASS. Accordingly statutory notices under section 143(2) & 142(1) were issued and served on the assessee through ITBA on

the email address sivareddy@ivrinfra.com and raghuram1@ivrinfra.com. However, there was no response to the above notices for which the Assessing Officer issued another letter to the assessee. However, there was no response from the side of the assessee for which the Assessing Officer proceeded to complete the assessment u/s 144 of the I.T. Act.

3. During the course of the assessment proceedings, the Assessing Officer observed from the balance sheet filed along with the return of income for A.Y 2018-19 that the assessee has shown under the head “liabilities – loans from related parties” amounting to Rs.221,02,24,108/-. Similarly in the return of income for A.Y 2017-18 the assessee has shown other current liability “other payables” amounting to Rs.220,84,94,737/-. Since the assessee did not furnish the requisite details as called for by the Assessing Officer, the Assessing Officer made addition of Rs. 221,02,24,108/- as unexplained cash credit u/s 68 r.w.s. 115BBE of the I.T. Act.

3.1 Similarly, from the Profit & Loss account and return of income for the impugned A.Y, the Assessing Officer noted that the assessee has shown interest income of Rs.6,79,614/- and claimed expenses of professional/consultancy fees/fee for technical services of Rs.16,05,000/-, bank charges and BG commission of Rs.3,80,036/-, rate/taxes/duty and cess of Rs.7,759/- and office expenses of Rs.68,770/-. Since no details were furnished to support the claim for the above expenses, the Assessing Officer made addition of Rs.20,61,565/- to the total income of the assessee. The Assessing Officer accordingly determined the total income of the assessee at Rs.221,08,83,722/- as against the returned loss of Rs.14,01,951/-.

4. Since the assessee did not appear before the CIT (A)-NFAC, despite number of opportunities granted, the learned CIT (A) NFAC in the ex-parte order passed by him sustained the additions made by the Assessing Officer .

5. Aggrieved with such order of the learned CIT (A) NFAC the assessee is in appeal before the Tribunal by raising the following grounds:

“1. The Order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts of the case and provisions of law.

2. The action of the learned Commissioner of Income Tax (Appeals)- in passing the order under section 250 of the Income Tax Act, 1961, against the assessee is unjust, arbitrary and deserves to be quashed.

3. That action of the learned Commissioner of Income-tax (Appeals) in not providing the proper opportunity of being heard and dismissing the appeal on the basis that representation., is against the cardinal principle of natural justice, and accordingly order deserves to be quashed.

4. That even otherwise, an order passed by the Learned Commissioner of Income Tax (Appeals) in "limine" without effectively disposing of the grounds raised by the appellant is in infraction of section 250(6) of the Act and as such, order so made is otherwise too illegal, invalid.

5. The action of the learned Commissioner of Income Tax (Appeals)-erred in confirming the action of the assessing officer in making an addition of Rs 221,02,24,1.08/ being borrowings payable to the holding company as unexplained cash credit u/s 68 of the Income Tax Act, 1961 without giving any proper opportunity.

6. The action of the learned Commissioner of Income Tax (Appeals)-erred in confirming the action of the assessing officer in disallowing other expenses in the amount of Rs 20,21,565/ without giving any proper opportunity.

7. The learned Commissioner of Income-Tax (Appeal) ought to have allowed the attributable expenditure incurred for deriving such income.

8. The learned Commissioner of Income-Tax (Appeal) erred in confirming the action of the assessing officer in determining the total income at Rs 221,08,83,722/-against the return of income Rs. (14,01,951)-.

9. The learned CIT(A) erred in confirming the action of the Assessing in levy of tax at special rates on Rs. 221,02,24,108/- u/s 115BBE of the I.T. Act.

10. The learned CIT(A) erred in confirming the action of the Assessing in levy of interest u/s 234B of Rs 63,17,82,659/- of the I.T.Act.

11. For these and other grounds that may be urged at the time of hearing, it is submitted that the Order of the lower authorities be set aside or modified as may be deemed fit".

6. The learned Counsel for the assessee submitted that the assessee could not appear before the Assessing Officer and the learned CIT (A) NFAC since all the notices were issued through email. However, the email ID to which the notices were sent were pertaining to one of the employees who left the company. Since the assessee company does not have dedicated staff for looking after the taxation matters and since the management of the assessee company was not even aware of the notices sent by the NFAC under e-proceedings, therefore, such a situation arose. He submitted that in the interest of justice, the assessee should be given an opportunity to substantiate its case by filing the requisite details..

7. The learned DR, on the other hand, strongly opposed the submissions of the learned Counsel for the assessee. He submitted that the notices were sent to the registered e-mail ID given by the assessee itself. Despite number of opportunities granted, the assessee did not appear before the Assessing Officer or before the learned CIT (A) NFA. Under these circumstances, no further opportunity should be granted to the assessee and the grounds raised by the assessee should be dismissed.

8. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) NFAC and the paper book filed on behalf of the assessee. We find the AO in the instant case determined the total income at

Rs.221,08,83,722/-as against the returned loss of Rs.14,01,951/- by making addition u/s 68 at Rs. 221,02,24,108/- and by disallowing expenses of Rs.20,61,565/-. We find the learned CIT (A) NFAC in the ex-parte order passed by him sustained the addition/disallowances made by the Assessing Officer in absence of any details furnished before him. It is the submission of the learned Counsel for the assessee that due to non-communication of the notices by the staff in whose email id the notices were sent, there was noncompliance to the statutory notices by the Assessing Officer and the learned CIT (A) NFAC. It is also his submission that given an opportunity, the assessee is in a position to substantiate its case to the satisfaction of the revenue authorities. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the learned CIT (A) NFAC with a direction to grant one last opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT (A) NFAC on the appointed day without seeking any adjournment under any pretext failing which the learned CIT (A) NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court itself at the time of hearing on 10th May, 2023.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 10th May, 2023

Vinodan/sps

Copy to:

S.No	Addresses
1	M/s. Alkor Petroo Ltd, M-22/3RT, Vijayanagar Colony, Hyderabad 500057
2	Dy.CIT, Circle 1(1) IT Towers, AC Guards, Masab Tank, Hyderabad-04
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order