

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT

BEFORE SHRI PAWAN SINGH, JM & DR. A.L.SAINI, AM

आयकर अपील सं./ITA No.443 to 445/SRT/2022

(निर्धारणवर्ष / Assessment Years: (2017-18 to 2019-20)

(Virtual Court Hearing)

Bharuch Forex Pvt. Ltd. Shop No.G5, Valika Shopping Complex, Mohammedpura, Bharuch- 392001	Vs.	Addl. Director of Income-tax (I & CI), Ahmedabad, Ground Floor, Aaykar Bhawan, Ashram Road, Ahmedabad- 380014
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAECB 0552 F		
(अपीलार्थी / Assessee)		(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : None

राजस्व की ओर से /Respondent by : Shri Vinod Kumar, Sr.-DR

सुनवाईकीतारीख/ **Date of Hearing** : 18/04/2023

घोषणाकीतारीख/**Date of Pronouncement**: 15/05/2023

आदेश / ORDER

PER DR. A. L. SAINI, ACCOUNTANT MEMBER:

Captioned three appeals filed by single assessee, pertaining to Assessment Years 2017-18 to 2019-20, are directed against the separate order passed by the National Faceless Appeal Centre (for short NFAC)/Ld. CIT(A) all dated 31.10.2022, which in turn arise out of separate penalty orders passed by the Addl. Director of Income Tax (I&CI), Ahmedabad /Assessing Officer ('AO' for short) u/s 274 r.w.s. 271FA of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') vide order dated 13.02.2020.

2. Since the issues involved in all the appeals are common and identical except variance of amounts, therefore, all the appeals have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity. The grounds as well as facts narrated in ITA No.443/SRT/2022 for assessment year 2017-18 have been taken into consideration for deciding these appeals *en masse*.

3. Grounds of appeal raised by assessee in ITA No.443/SRT/2022 in “*lead*” case are as follows :

“1) Aggrieved by the order of the Commissioner of Income tax-Appeals dated on 31.10.2022 for the Assessment year 2017-18, the assessee preferred appeal before the Income-tax Appellate Tribunal, wherein he wish to raise the following grounds: Sec.271FA -Assessee prays & appeals to the Income-tax Appellate Tribunal to quash the penalty initiated under the penalty proceedings u/s 271FA of the Act.”

4. Brief facts *qua* the issue are that assessee before us is a Private Limited Company. The competent authority, Addl. DIT(I&CI), Ahmedabad in his order held that during the course of spot verification conducted in the case of the assessee, on 11.12.20219, it was noticed that the assessee had not filed Statement of Financial Transaction (‘SFT’ for short). During the penalty proceedings, the assessing officer issued notices to the assessee thereby providing him opportunity of being heard in order to provide any explanation for the delay in filing SFT, but the assessee did not furnish any explanation, before the assessing officer. That is, assessee did not appear during the penalty proceedings before assessing officer despite of issuance of notices for hearings. Accordingly, assessing officer [the Addl. DIT(I&CI)] levied a penalty of Rs.3,80,900/- u/s 271FA of the Act.

5. On appeal, Id CIT(A), confirmed the penalty imposed by the assessing officer. Aggrieved, the assessee is in further appeal before us.

6. None appeared on behalf of assessee nor filed any application for adjournment despite of issuing of notice of hearing. These appeals have been listed for hearing on several occasions in the past, however assessee did not appear, except adjournment taken by assessee on 31.03.2022 by way of letter sent through post to the registry. However, today (18.04.2023) when the case was called for hearing, neither assessee nor its authorized Representative appeared before the Tribunal. It means the assessee is not interested in prosecuting these appeals. Therefore, we left no option, but to decide these appeals on the basis of materials available on record and after hearing Ld. Sr.DR for the Revenue.

7. We have heard Id DR for the Revenue. We note that assessee also filed written submission through Dak(post), which we have gone through. In the written submission, the assessee has reiterated the same facts/arguments which were made before Id CIT(A), during the appellate proceedings. The Assessee stated in his written submission that they have filed statement of Financial Transactions for the year under consideration when SFT filing option was available in e-filing portal. Later on, facility to file the statement of financial transaction has been shifted to New Reporting Portal, hence there was delay. However, the assessee did not submit and supporting evidence to prove this stand. On the other hand, Id DR for the Revenue supported the findings of lower authorities and stated that since the assessee did not appear before assessing officer during the penalty proceedings, hence matter may be remitted back to the file of the Assessing Officer. During the appellate proceedings it was observed by Id CIT(A) that nothing has been mentioned by the competent authority, Addl. DIT(I&CI), regarding the filing of SFT by the assessee on the old, e-filing portal in the penalty order under consideration. During the appellate proceedings, notices u/s 250 of the Act were issued to the assessee in order to provide it opportunities to substantiate its grounds of appeal. The assessee submitted its reply dated 10.05.2022, before Id CIT(A) wherein the assessee has only mentioned that it had filed the relevant SFT on e-filing portal and that it was filing it again on the new portal, based on which the penalty under consideration has been levied. However, the assessee has not furnished any documentary evidence or details corresponding to the SFT filed by it for the period under consideration on the e-filing portal before the deadline. The assessee is merely stating that the SFT for the period under consideration was already filed by it at the e-filing portal. Since the assessee has not furnished any specific evidence in support of its claim, it cannot be established that the SFT for the period under consideration was filed by it before due date on the e-filing portal. In view of the above facts, the Id CIT(A) confirmed the penalty imposed by the Assessing Officer. We have gone through the above findings of Id CIT(A) and noted that there is no infirmity in the conclusion reached by Id CIT(A). Hence,

these appeals deserve to be dismissed by upholding the orders passed by the CIT(A) and they are dismissed.

8. In the result, assessee's appeal ITA No.443/SRT/2022 is dismissed.

9. The identical and similar issues involved in other appeals of the assessee viz: in ITA Nos.444 & 445/SRT/2022 for A.Ys 2018-19 & 2019-20, therefore our instant adjudication in appeal in ITA No.443/SRT/2022 for A.Y 2017-18 (supra) shall apply *mutatis mutandis*, to other appeals also.

10. In combined result, these three appeals of assessee are dismissed.

A copy of the instant common order be placed in the respective case file(s).

Order pronounced on 15/05/2023 by placing the result on the notice board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

सूत /Surat/दिनांक/ Date: 15/05/2023

Dkp Outsourcing Sr.P.S.

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr.CIT
5. DR/AR, ITAT, Surat
6. Guard File

// True Copy //

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

By Order

Senior Private Secretary/Private Secretary/
Assistant Registrar, ITAT, Surat