

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : C : DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.3053/Del/2022
Assessment Year: 2017-18

JPS Plastics Private Limited,
C/o M/s AKJ & Associates,
Chartered Accountants,
1st Floor, Deep Complex,
Begum Bridge Road,
Meerut,
Uttar Pradesh - 250 001.

Vs DCIT,
Circle-1(1)(1),
Meerut.

PAN: AAACJ3433B

(Applicant)

(Respondent)

Assessee by	:	Shri Arun Jain, CA
Revenue by	:	Shri Anuj Garg, Sr. DR
Date of Hearing	:	23.05.2023
Date of Pronouncement	:	24.05.2023

ORDER

PER M. BALAGANESH, AM:

This appeal in ITA No.3053/Del/2022 for AY 2017-18 arises out of the order of the Commissioner of Income Tax (Appeals), NFAC, Delhi, [hereinafter referred to as 'Id. CIT(A)', in short] in DIN & Order No.ITBA/NFAC/S/250/2022-23/1047466981(1) dated 17.11.2022 against the order of assessment passed u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 14.03.2019 by the Id. Assessing Officer, CPC, Bangalore (hereinafter referred to as 'Id. AO').

2. The only issue raised by the assessee before us is that whether the Id.CIT(A) was justified in deciding the appeal without condoning the delay in filing of the appeal before him by 696 days and without adjudicating the issue on merits.

3. We have heard the rival submissions and perused the material available on record. The assessee company filed its return of income for the AY 2017-18 on 24.10.2017 declaring the total income of Rs.1,05,50,840/-. An intimation u/s 143(1) of the Act was issued by the Id.DCIT, CPC, Bangalore dated 14.03.2019 wherein disallowance on account of delayed payment of ESI/PF amounting to Rs.6,99,382/-; and disallowance of Rs.2,87,765/- on account of depreciation u/s 32 of the Act were made. The assessee preferred an appeal before the Id.CIT(A) with a delay of 696 days. The delay was not condoned by the Id.CIT(A) and the appeal of the assessee was dismissed by him. Aggrieved, the assessee is in appeal before us.

4. The Id. AR before us pointed out that pursuant to the filing of the return, the case was selected for scrutiny and an assessment order was framed u/s 143(3) of the Act on 27.12.2019 wherein a sum of Rs.2,23,283/- alone was added on account of disallowance of 20% of wages. In that order, there was no reference made with regard to the intimation u/s 143(1) of the Act. The assessee preferred an appeal against that order before the Id.CIT(A). At the time of preparation of written submissions before the Id.CIT(A), the assessee company noticed that there was a difference in income as per assessment order u/s 143(3) of the Act and the amount mentioned in the tax computation sheet attached along with the assessment order. Thereafter, the assessee tried to understand the difference in the additional income reflected in the tax computation sheet and tried to access the intimation u/s 143(1) of the Act from the Income-tax e-filing portal of the assessee company which was not available. The evidence in this regard in the form of screenshots of the income-tax portal showing that the intimation u/s 143(1) of the Act was not available to the assessee on 31.01.2021 and 27.02.2021 was placed on record in pages 84 and 85 of the paper book by the Id. AR. Subsequently, pursuant to continuous efforts taken

by the assessee, the intimation u/s 143(1) of the Act dated 14.03.2019 was at last issued to the e-mail of the assessee company and within 30 days from the date of receipt of such intimation, the assessee had preferred an appeal before the Id.CIT(A) on 09.03.2021. In our considered opinion, the assessee had sufficient reasons for not preferring the appeal before the Id.CIT(A) in time against the intimation u/s 143(1) of the Act dated 14.03.2019. Moreover, it is also a fact on record that intimation u/s 143(1) of the Act dated 14.03.2019 has been served in the e-mail of the assessee at a later point in time and, thereafter, within 30 days thereafter, the assessee had duly filed the appeal before the Id.CIT(A). Considering these facts, we direct the Id.CIT(A) to condone the delay in filing the appeal by the assessee before him and adjudicate the grounds raised before him on merits. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 24.05.2023.

Sd/-

(C.M. GARG)
JUDICIAL MEMBER

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 24th May, 2023.

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi