

**आयकर अपीलीय अधिकरण " बी" न्यायपीठ पुणेमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**PUNE BENCHES "B" :: PUNE**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER**  
**AND**  
**DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.562/PUN/2023**  
**निर्धारण वर्ष / Assessment Year : 2018-19**

|  |    |   |
|--|----|---|
| Suttatti Enterprises Pvt. Ltd.,<br>43, Hadapsar Industrial Estate,<br>Hadapsar, Pune – 411013. | Vs | The Asst. Commissioner of<br>Income Tax, Circle-5,<br>Pune. |
| PAN: AACCS 4191 H  |    |   |
| Appellant / Assessee   |    | Respondent / Revenue  |

|                       |                              |
|-----------------------|------------------------------|
| Assessee by           | Shri Nikhil Pathak – AR      |
| Revenue by            | Shri Shashank Deogadkar – DR |
| Date of hearing       | 26/05/2023                   |
| Date of pronouncement | 29/05/2023                   |

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This appeal filed by the Assessee is directed against the order of Id.Commissioner of Income Tax (Appeal)(NFAC)[Id.CIT(A)] dated 11.03.2023 emanating from assessment order dated 23.09.2021 under section 143(3) r.w.s 144B of the I.T.Act, 1961 for the A.Y. 2018-19. The Assessee has raised the following grounds of appeal:

*“1] The learned CIT(A) erred in deciding the appeal of the assessee ex-parte without appreciating that there was reasonable cause on the part of the assessee in not responding to some of the notices issued by him.*

*2] The learned CIT(A) erred in confirming the disallowance*

*made u/s 80IA(5) amounting to Rs.58,71,350/- on the ground that the year under consideration was the 11<sup>th</sup> year of the claim.*

*3] The learned CIT(A) failed to appreciate that in this year, the assessee had claimed deduction in respect of the windmills located at Rajasthan for which the initial asst, year was A.Y. 2012-13 and accordingly, the claim made by the assessee u/s 80IA was justified in law.*

*4] The assessee submits that the initial asst, year for the Rajasthan windmill undertaking was A.Y. 2012 - 13 and therefore, the 10 years had not lapsed and accordingly, the assessee was justified in claiming deduction u/s 80IA in respect of the profits of the said windmill undertaking.*

*5] The assessee submits that the initial asst, year considered by the learned A.O. as A.Y. 2007 - 08 was for windmills in Maharashtra and Karnataka and not for the windmills in Rajasthan and accordingly, there was no reason to make any disallowance in respect of the claim made by the assessee.*

*6] The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”*

**Submission of Id.Authorised Representative (Id.AR) :**

2. The Id.AR at the outset submitted that assessee could not file details before the Id.CIT(A), the Id.CIT(A) has passed the order ex-parte. The Id.AR elaborated the reasons for not filling details. The Id.AR further submitted that assessee is willing to submit all the details if proper opportunity is given by the Id.CIT(A). Therefore, the Id.AR pleaded that the case may be set-aside to Id.CIT(A).

3. The Id.Departmental Representative(ld.DR) for the Revenue relied on the order of the Lower Authorities.

**Findings & Analysis :**

4. We have heard both the parties and perused the records. Assessee's Ground No.1 is regarding ex-parte order passed by the ld.CIT(A). On perusal of the ld.CIT(A)'s order, it is observed that assessee has not made any submission before the ld.CIT(A).

4.1 We are convinced that there was valid reason for not making proper submission before the ld.CIT(A). Before us, the ld.AR has assured that assessee will comply with the directions. In the interest of justice, we set-aside the order of ld.CIT(A) to the file of ld.CIT(A) for denovo adjudication. The ld.CIT(A) shall give appropriate opportunities to the assessee. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open Court on 29<sup>th</sup> May, 2023.

**Sd/-**  
**(S.S.GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 29<sup>th</sup> May, 2023/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.