

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

**Before Dr. Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 141/KOL/2023
Assessment Year: 2017-2018**

***NCBA Exports Pvt. Limited,.....Appellant
C/o. Subash Agarwal & Associates,
Advocates,
Siddha Gibson, 1, Gibson Lane,
Suite-213, 2nd Floor, Kolkata-700069
[PAN: AABCN0483A]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-11(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069***

Appearances by:

*Shri Siddharth Agarwal, A.R., appeared on behalf of the
assessee*

*Shri Vijay Kumar, Addl. CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing : April 11, 2023

Date of pronouncing the order : June 14th , 2023

O R D E R

Per Dr. Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2017-18 is directed against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 31.01.2023, which is arising out of the order under section 143(3) of

the Act dated 26.12.2019 framed by the ITO, Ward-11(2), Kolkata.

2. The grounds of appeal raised by the assessee read as under:-

(1) For that on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in passing the order ex-parte without providing proper opportunity of

(2) For that on the facts and in the circumstances of the case, the Ld. CIT(A) grossly erred in confirming the addition of Rs.4,03,349/- made by the A.O. on account of alleged reduction in net profit inspite of substantial decreased turnover by invoking the provisions of sec. 145(3) of the Act.

(3) For that on the facts and in the circumstances of the case, the Ld. CIT(A) grossly erred in confirming the action of the A.O. in rejecting the books of accounts u/s 145(3) and estimating the net profit as per best judgment.

(4) For that on the facts and in the circumstances of the case, the Ld. CIT(A) grossly erred in confirming the action of the A.O in applying the net profit rate @ 1.09%.

(5) For that on the facts and in the circumstances of the case, the Ld. CIT(A) ought to have considered that without pointing out any specific defect, books of accounts cannot be rejected merely on the ground of reduction of profit.

3. We have heard the rival contentions and perused the relevant material placed on record. We note that in the peculiar set of facts in the present case before us, relevant documentary evidences are placed on record. However, detailed enquiry to examine the book results declared by the assessee-company has not been undertaken both at the assessment level and at the 1st Appellate stage. Further ld. Counsel has pleaded to set

aside the matter, wherein assessee will make all the necessary submissions for its claim.

4. We find that the ld. 1st Appellate Authority has dismissed the appeal of the assessee for want of prosecution as assessee failed to appear on the date of hearings. Considering the prayer of the ld. Counsel for the assessee and in the interest of justice and fair to both the parties, we set aside the impugned order of ld. CIT(Appeals) and restore the issues to the file of ld. CIT(Appeals) for fresh adjudication on due consideration of submission to be filed by assessee for which reasonable opportunity of being heard should be granted.

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

Order pronounced in the open Court on 14th June, 2023.

Sd/-

Sd/-

(Sonjoy Sarma)
Judicial Member

(Manish Borad)
Accountant Member

Kolkata, the 14th day of June, 2023

*Copies to :(1) NCBA Exports Pvt. Limited,
C/o. Subash Agarwal & Associates,
Advocates,
Siddha Gibson, 1, Gibson Lane,
Suite-213, 2nd Floor, Kolkata-700069*

*(2) Income Tax Officer, Ward-11(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*

*(3) CIT(Appeals), National Faceless Appeal
Centre (NFAC), Delhi;*

- (4) *Commissioner of Income Tax- ;*
(5) *The Departmental Representative*
(6) *Guard File*
TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.