

आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 355/Kol/2023
Assessment Year: 2012-13

Sangit Tracon (P) Ltd. (PAN: AAHCS 8909 C)	Vs.	ITO, Ward-5(2), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	25.05.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	16.06.2023
For the Appellant/ निर्धारिती की ओर से	Shri Miraj D Shah, A.R
For the Respondent/ राजस्व की ओर से	Shri P. P. Barman, Addl. CIT, Sr. D.R

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 9.5.2022 for the AY 2012-13.

2. At the outset the Ld. Counsel for the assessee submitted that the appeal in this case has been filed in the name of M/s Sangit Tradelink Pvt. Ltd. which was merged with Pushpsri Fiscal Pvt. Ltd. vide order dated 23.12.2015 in the scheme of amalgamation. The Ld. A.R also pointed out that even the appellate order has been passed in the name of non-existent company as the amalgamation has happened prior

to that date as stated hereinabove. The Ld. A.R therefore prayed before the Bench that the assessee may be allowed to withdraw the present appeal filed in the name of non existent entity i.e. amalgamating company and further prayed that a leave may be granted to file fresh appeal in the name of amalgamated company and any delay in filing the appeal may be condoned if the appeal is filed within a reasonable time. The Ld. A.R therefore prayed before the Bench that the present appeal may kindly be dismissed with the opportunity to the assessee to file fresh appeal in the name of M/S Pushpsri Fiscal Pvt. Ltd..

3. The Ld. D.R on the other hand left the issue to the wisdom of the Bench.

4. After hearing rival contentions and perusing the material on record, we observe that the assessee has filed the instant appeal in the name of amalgamating company which has merged with M/S Pushpsri Fiscal Pvt. Ltd. vide order dated 23.12.2015 passed by the Hon'ble High Court. We are of the view that the appeal in the name of amalgamating company cannot be adjudicated as being non-existent entity and it has to be the name of amalgamated company. Accordingly we are dismissing this appeal with liberty to file fresh appeal in the name of amalgamated company. Pertinent to state that the time period from the date of filing of this appeal till the date of filing the fresh appeal in the name of amalgamated company would not be considered while reckoning limitation period.

5. In the result, the appeal of the assessee is dismissed in terms of observation/direction given above.

Order is pronounced in the open court on 16th June, 2023

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)

(Rajesh Kumar/राजेश कुमार)

Judicial Member/न्यायिक सदस्य

Accountant Member/लेखा सदस्य

Dated: 16th June, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s Sangit Tracon Pvt. Ltd., 77/79, Netaji Subhas Road, 5th Floor, Kolkata-700001
2. Respondent – ITO, Ward-5(2), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata