

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI

BEFORE SHRI ABY T. VARKEY, JM AND SHRI AMARJIT SINGH, AM

आयकर अपील सं/ I.T.A. Nos. 1307 & 1308/Mum/2023

(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s. Satec Envir Engineering (India) Pvt. Ltd. 27A, Laxmi Industrial Estate, Link Road, Andheri (West), Mumbai-400053.	बनाम/ Vs.	ACIT, TDS Range-2(2) Room No.701, 7 th Floor, KG Mittal Building, Netaji Subhash Road, Charni Road, Mumbai- 400002.
स्थायी लेखा सं. /जीआइआर सं. /PAN/GIR No. : AACCS0746E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Ms. Vinita Shah
Revenue by:	Shri Ram Krishna Kedia (Sr. AR)

सुनवाई की तारीख / Date of Hearing: 05/07/2023

घोषणा की तारीख /Date of Pronouncement: 20/07/2023

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi dated 21.06.2022 for AY. 2012-13 wherein the Ld. CIT(A) has dismissed the quantum appeal as well as penalty appeal preferred by the assessee for AY. 2012-13.

2. At the outset, the Ld. AR of the assessee Smt. Vinita Shah drew our attention to the fact that the impugned order of the Ld. CIT(A) (both appeals) are *ex-parte* orders and the assessee was not able to appear/contest/submit the written submission/relevant documents for want of proper notice. According to the Ld. AR, the assessee had not received any intimation by post/e-mail regarding the listing of appeals. In order to support the aforesaid contention, the assessee has filed an affidavit of the director of the assessee company Shri Amarprakash Agarwal. In the affidavit, the director has contended that he came to



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know about the impugned orders while casually verifying the *e-filing portal* that the Ld. CIT(A) has dismissed both the appeals preferred by it. And therefore, there was delay also in filing the appeals which may also be condoned.

3. In this regard, it is noted that the Ld. CIT(A) has fixed the appeal on four (4) days/dates and had given the details of it as well as dates of issuing notice. However, finding no response from assessee, the Ld. CIT(A) has dismissed the appeal without going into the merits of the case. The only reason given by assessee is that even though in Form No. 35 it has given the email Id as satec57@gmail.com, however, the notices could not be found/traced in it. According to the Ld. AR, may be due to technical snag, the digital notice could not have been received by assessee. In order to support the aforesaid contention, the assessee has filed an affidavit of not receiving the copy of notice of hearing of the appeal. The assessee has also submitted that immediately after coming to know about the ex-parte order it had filed the appeal before this Tribunal. And in that process there is a delay of eight (8) months in filing of appeal. Be that as it may, taking into consideration the fact that the assessee was in the dark about the exparte order passed by the Ld. CIT(A) in both appeals, we condone the delay for filing the appeals. And since reasonable cause has been made out for non-appearance/filing of written submission/relevant documents before the Ld. CIT(A), and since the Ld. CIT(A) has passed the impugned orders without hearing the assessee and without going into merits of the grounds raised by assessee, we set aside the orders of the Ld. CIT(A) and restore the appeals back to his file and



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direct the Ld. CIT(A) to adjudicate the grounds of appeal raised by the assessee in accordance to section 250(6) of the Act after giving proper opportunity to the assessee. The Ld. AR undertakes to file the correct email address as well as postal address to the knowledge of the Ld. CIT(A) so that notices of hearing can be rightly sent to the assessee and it can properly represent before the Ld. CIT(A) and file relevant documents/written submission before Ld CIT(A).

4. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on this 20/07/2022.

Sd/-

(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 20/07/2022.
Vijay Pal Singh, (Sr. PS)

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai