

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.537/Bang/2023
Assessment year : 2013-14

Kraft Metals India Pvt. Ltd., D 1301, Platinum City, Yeswanthpur, Bangalore – 560 022. PAN: AAECK 4943M	Vs.	The Income Tax Officer, Ward 4(1)(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Deepesh Waghale, CA
Respondent by	:	Shri Subramanian S., Addl. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	27.09.2023
Date of Pronouncement	:	03.10.2023

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal by the assessee is against DIN & Order No.ITBA/NFAC/S/250/2023-24/1053135281(1) dated 24.05.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC] for the AY 2013-14.

2. The brief facts of the case are that assessment order was passed u/s 144 dated 30.03.2016 which was set aside by the Pr.CIT u/s. 263 of the Act. Consequently, the AO issued notice to the assessee and

authorized representative expressed his inability to produce the documents , accordingly the AO passed his order on 05.12.2018 on the basis of materials available before him. On appeal, the CIT(Appeals) observed that the assessee was repeatedly requested to file reply in the appellate proceedings, however no submission was made by the assessee. Therefore the CIT(Appeals) on the basis of material available on record dismissed the appeal of the assessee. Aggrieved, the assessee is in appeal before the Tribunal.

3. The Id. AR submitted that the director of the assessee company was abroad and hence there was no proper representation by the assessee in the first round of proceedings before the AO u/s. 144 of the Act as well as in pursuance of the revision proceedings u/s. 263. Before the CIT(A) the assessee could not present his case for the above reason. He prayed for one more opportunity to represent the assessee's case and undertook to submit necessary evidence before the AO and agreed for payment of costs.

4. The Id. DR submitted that the assessee is habitually avoiding the income tax proceedings in the original proceedings as well as in revision proceedings and in appellate proceedings, therefore, the assessee should not be given another chance and order of the CIT (A) should be upheld.

5. Considering the rival submissions and the material on record, we note that the assessee was unable to represent its case before the AO in the first round of scrutiny proceedings as well as in pursuance of the

revision proceedings before the AO and even before the CIT(Appeals) due to the Director's visit abroad. However the Id. AR of the assessee has not shown any single document for the period of stay in abroad by the director of the company explaining the reason. In the interest of justice, we think it appropriate to grant one more opportunity to represent its case before the AO on payment of costs of Rs.50,000/- (Rupees Fifty thousand only) as agreed for payment of cost by the Id. AR. Accordingly, we remit the appeal to the file of Assessing Officer for fresh consideration and decision as per law after reasonable opportunity of being heard to the assessee. The assessee will file proof of payment of costs before the Assessing Officer to initiate fresh assessment proceedings as above. Needless to mention that the assessee will furnish necessary evidence and not to seek unnecessary adjournments for early disposal of the case.

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

Pronounced in the open court on this 03rd day of October, 2023.

Sd/-

Sd/-

(GEORGE GEORGE K.)
VICE PRESIDENT

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 03rd October, 2023.

/Desai S Murthy /

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.