

and disposed of by this common order for the sake of convenience and brevity.

2. At the outset, it is noticed that both the appeals are delay by 6 days and 3 days respectively and it is explained in the affidavit that the assessee were out of station and the delay occurred in filing appeal. Due to sufficient reason for the delay, following the judgment of the Hon'ble Apex Court in the case of *Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471*, delay in filing the appeals before the Tribunal is condoned.

3. We first take up ITA No.649/Bang/2023. Briefly stated, the facts are that the assessee filed return of income on 23.11.2016 declaring taxable income of Rs.1,56,93,920 after claiming deduction under Chapter VIA of Rs.1,77,000. The case was selected for scrutiny under CASS for 'large deduction claimed u/s. 57'. Accordingly notice u/s. 143(2) and other notices were issued to the assessee. However, in spite of repeated notices, the assessee did not reply to the same. Thereafter, a show cause notice was issued to the assessee on 21.11.2018, thereafter the assessee submitted details to which is incorporated in para 6 of AO's order. Further, a show cause notice dated 4.12.2018 was issued to the assessee calling for certain documents as per para 7 of the AO's order which the assessee failed to produce. Therefore, the AO for want of proof, the AO disallowed the claim of deduction claimed u/s. 57 and added to total income of the assessee.

4. Aggrieved by the order of the AO, the assessee filed appeal before the CIT(Appeals). During the appellate proceedings, the AO filed written submissions along with confirmations of loan taken and interest paid. The CIT(Appeals) gave three opportunities to file additional evidence as per Rule 46A of I.T. Rules, 1962 which was called for by the AO. The CIT(Appeals) noted that the assessee failed to submit the documents, therefore after discussing the issue in detail as per material on record before him, he dismissed the appeal of the assessee. Aggrieved, the assessee is in appeal before the Tribunal.

5. The Id. AR submitted that during the appellate proceedings, the assessee filed details in respect of claim of expenditure and loan taken by way of confirmation letters from the concerned parties on 09.06.2023 and acknowledgement is available at page 1 & 2 of PB. The Id. AR has filed paperbook containing pages 1 to 25. However, while passing the order, the CIT(Appeals) did not consider the same. Accordingly, she submitted that if a chance is given, she undertook that the assessee will be able to prove the claim of deduction for expenditure before the AO.

6. The Id. DR relied on the orders of lower authorities.

7. Considering the rival submissions and perusing the material on record, we note that during the course of assessment proceedings the AO called certain documents as per 7 of his order, which was not complied by the assessee. Therefore he disallowed the claim u/s. 57 of the Act. The assessee filed confirmation letter before the CIT (A) in

respect of loan taken & interest paid from the concerned parties as per acknowledgement dated 09.06.2023 which is at page 1 & 2 of PB. However, we note that the due date for submission of these documents was 26.05.2023 and the documents were produced on 09.06.2023. The Id. CIT(Appeals) without considering these documents has passed the appellate order on 27.06.2023. Considering the prayer of the assessee, we deem it fit to send the matter back to the AO for de novo consideration. Accordingly, the issue is restored to the Assessing Officer for decision as per law after giving reasonable opportunity of being heard to the assessee. The assessee is directed to produce the requisite documents for substantiating her case before the AO and avoid seeking unnecessary adjournment for early disposal of the case.

8. Since, ITA No.650/Bang/2023 also involves similar issue on the same facts, the decision in ITA No.649/Bang/2023 shall mutatis mutandis apply to this appeal.

9. In the result, both the appeals of the assesseees are allowed for statistical purposes.

Pronounced in the open court on this 29th day of November, 2023.

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

Bangalore,
Dated, the 29th November, 2023.

Sd/-

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.