

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

BEFORE SHRI.NARENDER KUMAR CHOUDHRY (JUDICIAL MEMBER)
AND
SHRI AMARJIT SINGH (ACCOUNTANT MEMBER)

I.T.A. No.2787/Mum/2023
(Assessment year : 20115-16)

M/s Jalaram Appliances
Polymers
10, Devan Industrial Estate
1B, Patel Road, Goregaon E
Mumbai-400 063

PAN : AAGFJ2391F

APPLICANT

Vs The Income-tax Officer, Ward-
31(2)(1), Mumbai
Pratyakshakar Bhavan, C-13,
BKC, Bandra East, Mumbai-400
051

RESPONDENT

Present for the Assessee Shri Purram Tejwani Ld. CA
Present for the Department Shri Ujjawal Kumar Chavan Ld. SR. AR

Date of hearing 06/12/2023
Date of pronouncement 08/12/2023

ORDER

Per N.K. Choudhry (JM):

This appeal has been preferred by the Assessee, against the order dated 15/06/2023 impugned herein passed by the National Faceless Appeal Centre, Delhi (in short 'NFAC') / Ld. Commissioner of Income-tax (in short, 'Ld. Commissioner') under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for the A.Y. 2015-16.

2. The Assessee being a partnership firm engaged in the business of manufacturing and sale of home appliances, declared its income as 'Nil' by filing its return of income for the year under consideration on 3/10/2015 which was subsequently selected for scrutiny under CASS, which resulted into making the disallowances/additions of Rs.32,000/- under section 41(1) of the Act on account of sundry creditors and Rs.7,60,278/- on restriction of deduction under section upto 25% (Rs.7,60,278/-) of Rs.22,80,832/- while passing the assessment order dated 27/12/2017 under section 143(3) of the Act. The Assessing Officer also simultaneously initiated penalty proceedings under section 271(1)(c) of the Act for furnishing inaccurate particulars of income and vide penalty order dated 21/06/2018 under section 271(1)(c) of the Act, levied a penalty of Rs.7,14,664/-.

3. The Assessee being aggrieved challenged the said penalty order before the Ld. Commissioner. However, as it appears from the impugned order, inspite of sending various notices on ITBA portal, the Assessee did not file any submission on ITBA portal and therefore, in the constrained circumstances, the Ld. Commissioner decided the appeal of the Assessee by dismissing the same on non-filing of any submission and / or any document by the Assessee in support of its claim. We observe that the Ld. Commissioner failed to decide the appeal filed by the Assessee in proper manner due to non compliance of the Assessee, and therefore the Assessee do not deserves any leniency, however, considering the peculiar fact as the Ld. Commissioner did not pass the order on merit, hence we are inclined to remand the instant case to the file of the Ld. Commissioner for decision on merit. Consequently, the impugned order is set aside and the case is remanded accordingly. We also direct the Assessee to

appear as and when would be required before the Ld. Commissioner and to file the relevant documents which would be essential and to be needed by the Ld. Commissioner for proper adjudication of the case.

4. In the result, appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 8/12/2023.

Sd/-

sd/-

(AMARJIT SINGH)	(NARENDER KUMAR CHOUDHRY)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Pavanan

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

Asstt. Registrar / Senior Private
Secretary

ITAT, Mumbai

