

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.508/Kol/2023
Assessment Year: 2012-13**

Aim Packaging Pvt. Ltd. Satgachia, Burdwan, West Bengal-713422. (PAN: AAGCA8250M)	Vs.	Commissioner of Income Tax (Appeals), Unit-3, Coimbatore.
(Appellant)		(Respondent)

Present for:

Appellant by : N o n e
Respondent by : Shri P. P. Barman, Addl. CIT

Date of Hearing : 30.11.2023
Date of Pronouncement : 01.01.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide order no. ITBA/NFAC/S/250/2022-23/1050977409(1) dated 20.03.2023 passed against the assessment order by ITO, Ward-1(1), Burdwan, u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 29.02.2016.

2. There is a delay of two days in filing the present appeal for which there is nothing on record for condoning the said delay filed by the assessee. However, considering the briefness of delay of just two days, we find it proper to condone the same and adjudicate upon the matter.

3. The sole issue involved in this appeal is against the confirmation of addition of Rs.19,64,695/- by the Ld. CIT(A) on account of depreciation.

4. From the appeal folder, we take note of the fact that this appeal has been fixed for hearing on several occasions. On all the dates of hearing none appeared on behalf of the assessee to represent the case. Notices were sent through RPAD as well as on e-mail but all of them remained unresponded. Since reasonable opportunities of hearing have been given to the assessee and all of them have remained unresponded, we are inclined to take up the matter ex parte qua the assessee with the assistance of Ld. Sr. DR and material available on record.

5. Brief facts as culled out from orders of the authorities below are that assessee did not file its original return. Subsequently, a notice u/s. 148 of the Act was issued in response to which a return was filed on 24.07.2015 reporting total income of Rs.1,410/-. In the course of assessment, Ld. AO noted that assessee had claimed depreciation of Rs.19,64,695/-. However, he upon verification of records found that revenue from operations was nil and that there were no direct expenses such as wages, power and fuel relating to production reported in the audited financial statement. Ld. AO also observed that there was no change in the stock-in-trade during the year. Based on these facts, he drew an inference that impugned assets on which depreciation has been claimed were not put to use during the year to claim depreciation for plant and machinery and furniture and fixture. A show cause notice was issued by the Ld. AO to explain the issue. Assessee filed its written submission wherein certain expenses were mentioned about the claim from insurance

company for the compensation for loss on account of break down. This submission, according to the Ld. AO, did not explain the claim of depreciation. Moreover, Ld. AO also noted that in the submission made by the assessee, it was stated that it took advance for supply of PVC pipe but it was returned since no supply could be made against the advance received. Accordingly, claim of depreciation was disallowed and added to the total income of the assessee. Aggrieved, assessee went in appeal before the Ld. CIT(A).

6. Before the Ld. CIT(A), in the written submission assessee claimed that use of asset during the previous year may be active or passive. Since the machines were discarded from actual use was not required, Ld. CIT(A) after considering the submission held that since there were no production or business during the year and also that there were no evidence forthcoming from the assessee thus, the depreciation claim could not be entertained. Aggrieved, assessee is in appeal before the Tribunal.

7. As we have already noted that none appeared on behalf of the assessee, we also note that no paper book or any written submission is placed on record to substantiate the grounds raised before us except for what is stated in the orders of the authorities below. It is not discernible as to how the machines were discarded or the machines were already in use if they were discarded in the year under consideration. Incomplete submission made by the assessee in no way establishes the claim of the depreciation on plant and machinery and furniture and fixture. Considering these facts of the case and observations made by the authorities below, we do not find any reason to interfere with the findings given by them and accordingly, confirm the disallowance so made.

8. In the result, ground taken by the assessee is dismissed.

Order is pronounced in the open court on 01.01.2024

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 01.01.2024

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. CIT(A), NFAC, Delhi
 4. ITO, Ward-1(1), Burdwan
 5. DR, ITAT, Kolkata Bench, Kolkata
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata