

। आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, HON'BLE JUDICIAL MEMBER

&

SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 900/Kol/2023

Assessment Year: 2012-13

Speed Infracon Private Limited (Successor to Harmony Infraprojects Private Limited) 85, Bentinck Street Ground Floor Kolkata - 700001 [PAN : AANCS3720R]	Vs	Income Tax Officer, Tech -1, Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri C. Roy, A.R.B.
Revenue by :	Shri B.K. Singh, JCIT, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 01/01/2024

घोषणा की तारीख/Date of Pronouncement : 02/01/2024

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi, [hereinafter the "Id. CIT(A)"] dt. 27/06/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal:-

"1. That the addition of Rs.7000000/- as unexplained cash credit u/s 68 of Income Tax Act 1961. That the addition of Rs.451321/- as u/s 40(a)(ia) of the Income Tax Act 1961 and Rs.162075/- as u/s 14A.

2. That even otherwise the addition is unwarranted when the payee has disclosed the impugned sum as part of his share capital.

3. That appellant is already merged with M/s. Speed Infracon Private Limited before the order passed by concerned Assessing Officer.

4. That appellant reserves right to raise additional grounds during hearing."

3. At the outset, the Id. Counsel for the assessee has invited our attention to the impugned orders of the lower authorities to submit

that the same are *ex-parte* orders. The Id. Counsel for the assessee has further submitted that in fact the assessment was framed in the name of erstwhile company i.e. M/s. Harmony Infraprojects Private Limited. That at the time of assessment proceedings, the said company was under the process of amalgamation with the present assessee company i.e. M/s. Speed Infracon Private Limited. The Id. Counsel for the assessee has submitted that the impugned assessment order was passed by the Assessing Officer on 27/03/2015 whereas, the said erstwhile company M/s. Harmony Infraprojects Private Limited, stood amalgamated to the present assessee company *w.e.f.* 01/04/2015 pursuant to the directions of the Hon'ble Calcutta High Court dt. 19/09/2016. The Id. Counsel for the assessee has further invited our attention to the order of the Id. CIT(A) to submit that the Id. CIT(A) has passed the appellate order in the name of the erstwhile company M/s. Harmony Infraprojects Private Limited. The Id. Counsel for the assessee has submitted that due to the above reasons, the assessee company could not represent itself before the lower authorities. He, therefore, has submitted that the assessee company may be given an opportunity to present its case before lower authorities and submit the required explanations /evidence to prove its case.

4. On the other hand, the Id. D/R has submitted that the assessee company has failed to submit that the assessee company has failed to submit the required details and evidence before the lower authorities and, therefore, the lower authorities have rightly made the impugned additions.

5. We have heard the rival contentions and gone through the records.

6. The Id. Counsel for the assessee has explained that the erstwhile company i.e., M/s. Harmony Infraprojects Private Limited (the original assessee) was under the process of amalgamation with the present assessee company M/s. Speed Infracon Private Limited. He has also explained the circumstances for which the assessee's case remained unrepresented before the lower authorities. In view of the above submissions of the Id. Counsel for the assessee, in our view, interests of justice will be well served if the assessee is given an opportunity to represent its case before the Id. CIT(A). We, accordingly, restore the matter to the file of the Id. CIT(A) for decision afresh. It is directed that the assessee will be allowed to furnish the required details and evidence before the Id. CIT(A) and the Id. CIT(A) if so thinks fit, may call upon the remand report from the Assessing Officer in respect of the evidence, if any, furnished by the assessee. The Id. CIT(A) thereafter will decide the case of the assessee on merits. Needless to say that the assessee will vigilantly pursue its case before the Id. CIT(A).

7. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Court on 2nd January, 2024 at Kolkata.

Sd/-

(Rajesh Kumar)
Accountant Member

Kolkata, Dated 02/01/2024

SC S.P.

Sd/-

(Sanjay Garg)
Judicial Member

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata