

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

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
Ms. MADHUMITA ROY, JUDICIAL MEMBER

ITA No.892/Bang/2023
Assessment year :2017-18

Dhanya TMT Private Ltd., No.4, Pragati Complex, Sadashiva Nagar, Anekal Road, Attibele, Anekal Taluk. Bangalore – 562 107. PAN: AALCA 1750H	Vs.	The Deputy Commissioner of Income Tax, Circle 2(1)(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri G. Baskar, Advocate
Respondent by	:	Ms. Neera Malhotra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	15.01.2024
Date of Pronouncement	:	19.01.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is against the DIN & Order No.ITBA/NFAC/S/250/2022-23/1047608023(1) dated 23.11.2022 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC] for the AY 2017-18.

2. At the outset, the appeal by the assessee is time barred by 295 days and the assessee has filed petition for condonation of delay and affidavit stating that the impugned order was not communicated to the

assessee on the email-id mentioned by the assessee in the e-filing portal. The pendency of the appeal before the CIT(Appeals) was lost sight of since the assessee was embroiled in SARFAESI proceedings. The impugned order came to the notice during internal audit and the appeal was filed before the Tribunal belatedly. Hence it was prayed that the delay may be condoned and appeal admitted.

3. After hearing both the parties and considering the submissions of the assessee for belated filing of the appeal, we are of the view that there is sufficient reason for not filing appeal within time and we condone the delay of 295 days and take up the appeal for adjudication.

4. The brief facts of the case are that the assessee is engaged in the business of manufacture of basic iron and steel. The assessee filed return of income on 30.3.2018 declaring a loss of Rs.3,16,96,117. The case was selected for scrutiny and statutory notices were issued to the assessee. During assessment proceedings, the AO issued various notices to the assessee, but the assessee did not respond. Finally show cause notice was issued which also remained unresponded. Accordingly the AO assessed taxable income at Rs.4,42,16,486.

5. On appeal, the CIT(Appeals) issued various notices which were not complied by the assessee. Accordingly, the CIT(Appeals) confirmed the order passed by the AO and dismissed the appeal of the assessee.

6. The Id. AR for the assessee submitted that the management of the company was not aware of the notices issued by both the authorities and the assessee company was also facing SARFAESI proceedings. The notice issued by the CIT(A) was not served to the assessee on the registered email-id with the department. He requested for another opportunity of hearing before the AO and undertook to substantiate its case with necessary evidence.

7. The Id. DR opposed the request of the Id. AR and submitted that both the authorities provided various opportunities to the assessee.

8. We have heard both the parties and considered the material on record. The AO passed assessment order u/s. 144 and before the CIT(Appeals) there was no representation by the assessee. The assessee has submitted that during the assessment proceedings the assessee was facing SARFAESI proceedings and that the notice issued by the CIT(Appeals) was not served on the assessee on its registered email-id with the department and hence could not be represented by the assessee before the lower authorities. The CIT(Appeals) has passed ex parte order. In the interest of justice, we remit the issues in appeal to the file of Assessing Officer for fresh consideration and decision as per law after giving proper opportunity of being heard to the assessee. The assessee is directed to communicate its correct email-id, mobile no. etc. to the department and produce all necessary evidence in support of its case and not seek unnecessary adjournment for early disposal of the case.

9. In the result, the assessee's appeal is allowed for statistical purposes.

Pronounced in the open court on this 19th day of January, 2024.

Sd/-

Sd/-

(MADHUMITA ROY)
JUDICIAL MEMBER

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 19th January, 2024.

/Desai S Murthy/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.