

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

**Before Shri Challa Nagendra Prasad, Judicial Member
&
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 2315/Del/2023 : Asstt. Year: 2015-16

Shiv Tools Engineering P Ltd., A-580, Dabua Pali Road, Faridabad, Haryana 121001 (APPELLANT)	Vs	The ACIT, Circle II, Faridabad, Haryana (RESPONDENT)
PAN No. AAICS 0332 D		

**Assessee by : Sh. Gurjeet Singh, Adv.
Revenue by : Sh. Vivek Vardhan, Sr. DR**

Date of Hearing: 29.01.2024

Date of Pronouncement: 01.02.2024

ORDER

Per Dr. B. R. R. Kumar:-

The present appeal has been filed by the assessee against the order of Id. CIT(A)/NFAC dated 15.06.2023.

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

1. *Because the action for initiation, continuation and conclusion of assessment proceedings u/s 143(3) is being challenged on facts and law.*

2. *Because the action is being challenged on facts and law for not providing reasonable opportunity of being heard. The assessment order being passed is in violation of the principle of natural justice and without giving adequate time and opportunity to the appellant to present the case.*

3. *Because action is being challenged on facts and law for making addition of Rs 40,00,000/- u/s 68 overlooking the submissions filed and documentary evidences furnished in support of having taken unsecured loans Rs 40,00,000/ - (Rs 20,00,000/ - borrowed from M/s*

Yug Computers Pvt Ltd and Rs 20,00,000 from Bharat Heights Limited).

4. For any consequential relief and / or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.

3. We find that the Id. CIT(A) has issued five notices from 30.12.2022 to 01.06.2023. In response to the notice issued on 30.12.2020, the assessee sought adjournment, which was granted by the Id. CIT(A). The assessee has not complied nor responded to the notices issued subsequently by the Id. CIT(A). Owing to the non-compliance of the assessee, the Id. CIT(A) dismissed the appeal of the assessee.

4. Before us, it was pleaded that given an opportunity the assessee would comply to the notices issued to the Id. CIT(A). The Id. DR argued that there was no reason for remanding the matter to the file of the Id. CIT(A), as already sufficient opportunities have been given, but assessee choose not to comply to the notices.

5. We have seen the facts on record and find that there is failure on the part of the assessee to comply to the notices. The assessee has failed to appear on five occasions before the Id. CIT(A) and has taken up the grounds before the Tribunal pertaining to legal principles of "*audi alteram partem*" and sustenance of order of the AO by the Id. CIT(A) on "*ex-parte*" basis. We strongly believe that every assessee has a right to appeal before the authorities against any addition or

disallowance made to the returned income, at the same time, it is least expected that the assessee would comply to the notices issued by the authorities in an appropriate way. The assessee having miserably failed to attend before the Id. CIT(A) has taken the grounds of "*audi alteram partem*" before us. While the grievance of the assessee is not being preempted by us, at the same time, we feel that the conduct of the assessee is clogging the already burdened justice delivery system. Hence, we hereby direct the assessee to pay an amount of Rs.10,000/- to the "Prime Minister's National Relief Fund" and approach the Id. CIT(A) for a fresh hearing *denovo* which shall be considered. The Id. CIT(A) is hereby directed to afford an opportunity of being heard to the assessee before conclusion of the proceedings.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 01/02/2024.

Sd/-
(C.N Prasad)
Judicial Member

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated: 01/02/2024

NV, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, DELHI