

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 3437/Del/2023
Asstt. Year: 2012-13

Raghav Petrochem Pvt. Ltd., Delhi. PAN AAACR4540H	Vs.	Income Tax Officer, Ward 20(3), Delhi.
(Appellant)		(Respondent)

Assessee by :	Shri Nirbhay Mehta, Adv.
Department by:	Shri Vivek Vardhan, Sr.DR
Date of Hearing:	19.02.2024
Date of pronouncement:	14.03.2024

ORDER

PER ASTHA CHANDRA, JM

The appeal filed by the Assessee is directed against the order dated 04.10.2023 of the Ld. Commissioner of Income Tax (Appeals) ("**CIT(A)**") / NFAC, Delhi pertaining to Assessment Year ("**AY**") 2012-13.

2. The Assessee has raised the following grounds:-

"1. That on the facts & circumstances of the case and in the law the order passed by Ld. CIT (A) National Faceless Appeal Centre (NFAC) (hereinafter referred to as CIT(A)) is contrary to the facts and bad in law.

2. The CIT(A) was not justified in facts and circumstances of the case and in law in sustaining addition of Rs. 7,94,27,009/- made by the Assessing Officer by holding that the appellant company has taken accommodation entries and treating the entire purchases made from Reema Polychem Pvt Ltd (Rs. 7,30,11677) and Reema Polychem (Rs. 64,15,332) as bogus based on information received from investigation wing Delhi.

2.1 That the action of the CIT(A) in confirming the addition made by AO is contradictory since against the alleged bogus purchases the appellant company had made corresponding sales and included profits earned on these transactions for calculating the income of the relevant assessment year.

3. That the CIT (A) was not justified in passing the order without providing the opportunity to the appellant to file submissions. The appeal was filed 11/01/2020 and the first notice for hearing received on 17/07/2023 against which adjournment was sought on 17/07/2023. The next notice was received on 15/09/2023 and the CIT(A) passed appeal order on 04/10/2023 without providing opportunity to the appellant to file submissions.

4. That the appellant craves leave to add, alter, amend, modify any of the grounds of appeal at the time of hearing or before.”

3. Briefly stated, the assessee company filed its return for AY 2012-13 on 19.09.2012 declaring income of Rs. 5,75,850/-. Subsequently, on the basis of information received from DDIT (Investigation), New Delhi, vide letter dated 25.03.2019 that two concerns namely, M/s Reema Polychem Pvt. Ltd. and M/s Reema Polychem were providing accommodation entry by issue of bogus purchase bills and the assessee was one of the beneficiary who had taken accommodation entry of Rs. 7,94,27,009/- during the previous year relevant to AY 2012-13 the proceedings u/s 147 of the Income Tax Act, 1961 (**“the Act”**) was initiated by issue of notice u/s 148 on 31.03.2019 which was duly served upon the assessee. In response thereto, the assessee filed its return on 21.05.2019 declaring income of Rs. 7,03,900/-. Statutory notice(s) were issued/served upon the assessee during the course of reassessment proceedings. On asking for the reasons recorded it was provided on

26.09.2019. The objection filed by the assessee vide letter dated 12.11.2019 to notice u/s 148 was disposed of vide order dated 19.11.2019 by the Ld. Assessing Officer (“AO”).

4. During the reassessment proceedings, the assessee filed ledger account, sale bills and bank statement in support of transactions with the aforesaid two concerns. With a view to verifying the genuineness of purchases, the Ld. AO issued notice u/s 133(6) and summons u/s 131 of the Act to the parties which were not complied with. The Ld. AO therefore held that the said purchases were non genuine / bogus and added the same to the income of the assessee. Accordingly, the Ld. AO completed the reassessment on total income of Rs. 8,01,30,909/- on 22.12.2019 u/s 147/143(3) of the Act.

5. Aggrieved, the assessee went in appeal before the Ld. CIT(A) who dismissed the appeal of the assessee for want of written submission or documentary evidence in support of the grounds raised before him despite sufficient and reasonable opportunity given. This has brought the assessee before the Tribunal and all the grounds of appeal relate thereto.

6. The Ld. AR submitted that the assessee filed appeal before the Ld. CIT(A) on 11.01.2020 and the first notice of hearing was received by the assessee on 17.07.2023. The assessee sought adjournment. It was further submitted by the Ld. AR that the assessee received the next notice of hearing on 15.09.2023 and compliance was sought on or before 22.09.2023. The Ld. CIT(A) passed ex-parte order on 04.10.2023 without providing opportunity to the assessee to file submissions.

7. The Ld. DR could not controvert the above factual submission of the Ld. AR.

8. We have heard the Ld. Representatives of the parties considered their submissions and perused the records. It is evident from the factual matrix of the appellate proceeding that it is a case of denial by the Ld. CIT(A) of reasonable opportunity to the assessee to present its case before him. Under such circumstances, in the interest of justice and fair play, we deem it fit to restore the matter back to the file of the Ld. CIT(A) to allow the assessee reasonable and sufficient opportunity to make submissions and plead its case and then to decide the appeal afresh in the light thereof, in accordance with law. We order accordingly. Consequently, the order of the Ld. CIT(A) is set aside.

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

Order pronounced in the open court on 14th March, 2024.

**sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER**

**sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER**

Dated: 14/03/2024
Pooja

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	