

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, BENGALURU BENCH  
BENGALURU**

**BEFORE SHRI N. K. CHOUDHRY, JM &  
SHRI LAXMI PRASAD SAHU, AM**

I.T.A. No.62/BANG/2024  
(Assessment Year: 2018-19)

**M/s. Wealth Vruddhi Financial  
Services  
123/5 E, 2<sup>nd</sup> floor, 6<sup>th</sup> Main  
Hosakerehalli, Bsk, 3<sup>rd</sup> Stage.  
Bangalore – 560 085**

Vs.

**Income Tax Officer,  
Ward -1 (2)(1)  
Bengaluru**

PAN No. **AACFW4273F**

**(Appellant) : (Respondent)**

**Appellant/Assessee by : Shri S.V. Ravishankar, Advocate**  
**Respondent/Department by : Shri Subramanian. S, JCIT**

**Date of Hearing : 13.03.2024**  
**Date of Pronouncement : 13.03.2024**

ORDER

**Per N. K. Choudhry, JM:**

This appeal has been preferred by the Assessee against the order dated 20.12.2023, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 250 r.w.s. 251 of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2018-19.

**2.** In the instant case, the Assessee had declared its income at Rs.'Nil' by filing its return of income on 14.8.2018, which was selected for limited scrutiny under CASS on the issue "Large Sales promotion expenses vis-à-vis gross receipts", which resulted into passing an Assessment Order dated 20.4.2021 u/s 143(3) read with section 144B of the Act, whereby an addition of Rs.74,94,603/- on account of disallowance of expenses qua sales promotion was made because of not submitting evidence such as vouchers, bills, etc., in support of sales promotion expenses by the Assessee. In the Assessment order dated 20.4.2021, the penalty proceedings u/s 270A(1) read with section 270A(8) were also initiated which ultimately resulted into imposing the penalty of Rs.46,31,666/- u/s 270(A) read with section 274 of the Act for not substantiating the claim of sales promotion expenses.

**3.** The Assessee being aggrieved with the penalty order dated 16.8.2021, u/s. 270(A) of the Act passed by the AO, preferred its first appeal before the Id. Commissioner, who though issued three notices for hearings/submission on 14.9.2022, 12.12.2023 & 19.12.2023 but the Assessee failed to substantiate its appeal and grounds raised therein, therefore, the Id. Commissioner for non-compliance and finding extremely difficult to adjudicate on the appeal for want of adequate submission and clarification and counter-clarification, ultimately dismissed the appeal of the Assessee due to non-prosecution by observing "*that the Assessee is*

*not aggrieved with the penalty order impugned herein and is not interested in pursuing the same. Since the Assessee has nothing to say on grounds of appeal, the appeal is dismissed”.*

**4.** The Assessee being aggrieved is in appeal before us.

**5.** Having heard the parties and perused the records, we observe that the Id. Commissioner though afforded reasonable opportunities to the Assessee to substantiate its case, however, the Assessee made no compliance and therefore created constrained circumstances for passing the order as ex-parte and therefore the Assessee do not deserve any leniency. However the Assessee before us raised the contentious issue that the penalty imposed under the relevant provisions of Section 270(A)(1) read with section 270A(9)(c) of the Act is not sustainable, in the eyes of law and statute. On the contrary, the Learned D.R. refuted the claim of the Assessee. Hence for the just decision of the case and substantial justice, we are inclined to give one more opportunity to the Assessee to substantiate its claim before the Id. Commissioner. We are also inclined to direct the Assessee to file the relevant documents as would be required and co-operate with the appellate proceedings before the Id. Commissioner and in case of further default, the Assessee shall not be entitled for any leniency.

Thus, the case is accordingly remanded to the file of Id. Commissioner, in the aforesaid terms.

**6.** In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 13.03.2024 during virtual hearing.

*Sd/-*  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

*Sd/-*  
**(N. K. Choudhry)**  
**Judicial Member**

*Mini, Sr.PS.*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)  
**ITAT, Mumbai**