

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.111/Ahd/2023  
(Assessment Year: 2016-17)

Meghmani Dyes And Intermediates Ltd. (Now Meghmani Dyes And Intermediates LLP), 403, White Corss, Gulbai Tekra Road, Ellisbridge, Ahmedabad-380006	Vs.	Deputy Commissioner of Income Tax, Circle-2(1)(1), Ahmedabad
[PAN No.AAACU9258P]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri B. T. Thakkar, A.R.
<b>Respondent by:</b>	Ms. Saumya Pandey Jain, SR. DR

<b>Date of Hearing</b>	19.03.2024
<b>Date of Pronouncement</b>	10.04.2024

ORDER

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Center (in short “NFAC”), Delhi vide order dated 18.01.2023 passed for Assessment Year 2016-17.

2. The Assessee has taken the following grounds of appeal:-

“1. The Commissioner of Income Tax (Appeal) erred in Law and on facts in dismissing the appeal for Non-Compliance without considering Written Submission filed by the appellant in I.T. Portal on 13/01/2023 within time limit mentioned in the appeal notice. The appeal order is passed on 18/01/2023.

2. The commissioner of Income Tax (Appeal) erred on facts and in law in confirming the order u/s 154 of the Income Tax Act even though it is not a mistake apparent from the record.

3. *The commissioner of Income Tax (Appeal) erred on facts in law in confirming disallowance(1) of Rs. 2,27,343/- on account of claim of Amortization of lease and (2) Disallowance of Rs.1,86,746/- on account of the Swacch Bharat Cess.”*

3. The brief facts of the case are that assessment order under Section 143(3) of the Act was finalized on 29.12.2018 determining total income at Rs. 51,65,19,248/-. Subsequently, the Assessing Officer passed rectification order under Section 154 of the Act holding that the assessee had claimed land amortization expenses to the tune of Rs. 2,27,343/- while calculating the total income, which had been incorrectly allowed by the Assessing Officer. However, under the Income Tax Act, amortization of land should be capitalized and even depreciation of land is not allowable as per Section 32 of the Act. Further, the Assessing Officer observed that the assessee has no reasonable explanation for claiming land amortization to the tune of Rs. 2,27,343/-. Accordingly, the above land amortization expenses were added to the income of the assessee by the Assessing Officer under Section 154 of the Act.

4. In appeal, the Ld. CIT(A) dismissed the appeal of the assessee on account of non-appearance / non-compliance on behalf of the assessee in response to various notices issued by Ld. CIT(A) giving various dates of hearing. Accordingly, Ld. CIT(A) dismissed the appeal of the assessee with the following observations:-

*“3. The aforesaid notice also remains uncomplied with. As can be seen from the above details, the appellant has been provided reasonable number of opportunities but appellant has chosen not to avail any of these. No written submission has been made by the appellant in support of the grounds taken during the appeal. It appears that the appellant is not keen to pursue the appeal and no material/argument has been brought on record by the appellant against the order of the AO and in support of the grounds taken in appeal.*

*3.1 Reference is made to the decision of Hon'ble Supreme Court in the case of CIT vs. BN Bhattacharya (1997) 118 ITR 4619 (SC), in which the Hon'ble Apex Court while dealing with the issue of persuasion of appeal has stated that-*

*“Preferring an appeal means more than formally filing it but effectively pursuing it.”*

*3.2 The Delhi Tribunal in CIT vs. Multiplan India Pvt. Ltd. as reported in 38 ITD 320 (Delhi) when faced with a similar situation of non-persuasion of appeal, dismissed the appeal of revenue.*

*3.3 In view of these facts, I am of the opinion that no interference is called for in the AO's order and therefore, the grounds of appeal are dismissed.*

*4. In the result the appeal is dismissed.”*

5. Before us, the Counsel for the assessee submitted that the Ld. CIT(A) did not taken into consideration the written submissions filed by the assessee with the office of Ld. CIT(A). The Counsel for the assessee drew our attention to the fact that notice under Section 250 of the Act was issued by Commissioner of Income Tax (Appeals) dated 06.01.2023, fixing the date of hearing for 13.01.2023. In response, to the notice issued by Ld. CIT(A) the assessee filed response, for which due acknowledgement was issued by the Income Tax Department dated 13.01.2023. However, while passing the appellate order dated 18.01.2023, the response filed by the assessee was not considered and the appeal of the assessee was dismissed ex-parte without taking into record the written submissions filed by the assessee.

6. On going through the records of the case, we observe that the assessee had filed written submissions in response to notice issued by Ld. CIT(A) which were not considered by the Ld. CIT(A) while passing the appellate order. Further, the Counsel for the assessee also submitted before us that similar claim of the assessee has been allowed by the Department in

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the succeeding assessment year as well. Accordingly, looking into the instant facts, the case is restored to the file of the Ld. CIT(A) to pass appropriate order in accordance with law, after giving due opportunity of hearing to the assessee and taking into consideration the written submissions filed by the assessee, in this regard.

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

<b>This Order pronounced in Open Court on</b>	<b>10/04/2024</b>
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**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 10/04/2024

TANMAY, Sr. PS

**TRUE COPY**

**आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :**

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad