

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'C', KOLKATA

[Before Dr. Manish Borad, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 642/Kol/2023
Assessment Year : 2014-15

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| Howrah Mills Company Limited PAN: AAACH 7560 D Appellant | vs | DCIT, Central Circle-1(1), Kolkata Respondent |
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|-----------------------|----------------------------------|
| Date of Hearing | 15.04.2024 |
| Date of Pronouncement | 17.04.2024 |
| For the Assessee | None |
| For the Revenue | Archana Gupta, Addl. CIT, Sr. DR |

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2014-15 is directed against the order dated 28.02.2023 passed by the Id. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the 'Id. CIT(A)'].

2. At the outset, registry has informed that there is a delay of 59 days in filing the appeal by the assessee. In this regard, assessee has filed a petition for condonation of delay. We after going through the same find that there is a reasonable cause behind the delay in filing the appeal of the assessee. Accordingly, we condone the delay in filing the appeal on the part of assessee.

3. At the time of hearing, no one turned up on behalf of the assessee. Although notices were issued from time to time from the registry to the assessee informing about pendency of this case. In this regard, notices were issued RPAD through mail and communication over phone to the assessee and after getting information, assessee has also filed adjournment petition before the bench on 16.01.2024, 04.10.2023, 28.08.2023 and on 07.08.2023 respectively and bench

has adjourned the case time to time on the request of assessee. However, from the record, it reveals that on 22.01.2024, assessee sought adjournment and prayer of the assessee was allowed by this Tribunal by fixing next date. However, when the matter is called today i.e. 15.04.2024 no one turned up on behalf of the assessee. Therefore, we have no other alternative but to heard the matter ex-parte against the assessee with the assistance of ld. DR. The ld. DR stated that issue no. 1 is covered against the assessee. In terms of the recent verdict of the *Hon'ble Supreme Court in Chekmate Services Pvt. Ltd. Vs. CIT (2022) 143 taxmann.com 178 (SC) dated 12.10.2022*. Therefore, ground no. 1 is liable to be dismissed. We, after hearing the ld. DR and after considering the judgment of Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. (supra). The instant issue attained finality. Accordingly, ground no. 1 taken by the assessee is hereby dismissed.

4. Similarly, ground no. 2 passing the impugned order by ld. CIT(A) noticed that while calculating the delay in deposit towards ESI & PF, ld. AO had calculated the amount only for 11 months and did not take into account contribution for the month of March, 2014. Therefore, the ld. CIT(A) has enhanced the disallowance further sum of Rs. 26,49,987/- as in the case of assessee. At the time of hearing before the ld. CIT(A), assessee has failed to furnish any re-conciliation in order to substantiate its claim and the ld. CIT(A) confirmed the same.

5. Before us, the assessee has also failed to substantiate its claim by submitting any supported documents in order to establish its claim to prove contrary to the order passed by ld. CIT(A). Therefore, ground no. 2 taken by assessee is hereby dismissed.

6. Ground no. 3 is in relation to addition of Rs. 75,867/- made on account of interest received by assessee and assessee has completely failed to give any explanation regarding the issue involved. Accordingly, ld. CIT(A) sustained the order by dismissing the ground taken by the assessee before him. Since assessee has failed to substantiate its argument before the ld. CIT(A) as well as before us. Therefore, we feel it necessary to remand the issue to the file of AO with the direction to re-examine the issue afresh after affording reasonable opportunity of being heard to the assessee.

7. Similarly, ground no. 4 regarding confirming the action of assessing officer by not allowing the set off of brought forward loss and unabsorbed depreciation as claimed by assessee amounting to Rs. 1,41,649/-. The assessee could not furnish any details before the ld. CIT(A) as well as before this Tribunal in order to substantiate its claim. We, therefore, interest of justice remand back the instant issue to the file of AO with the direction to re-examine the issue afresh after affording reasonable opportunity of being heard to the assessee. In terms of the above, appeal of the assessee is partly allowed for statistical purposes.

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

Order pronounced in the open court on 17.04.2024.

Sd/-

Sd/-

(Dr. Manish Borad)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated:17.04.2024
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Howrah Mills Company Limited, 135, Foreshore Road, P/O. Shibpur, Howrah-7110102.
2. Respondent – DCIT, Central Circle-1(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata