

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE
BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI S.S. GODARA, JUDICIAL MEMBER**

**ITA No.139/PUN/2024
Assessment Year : 2020-21**

Chetas Control Systems Pvt. Ltd. Plot No.1, S.No.8+9 Chetas House, Shree Sidhatek Hsg. Soc, Sutarwadi, Pashan, Pune – 411021	Vs.	Assessment Unit, Income Tax Department
PAN : AAACC7437N		
(Appellant)		(Respondent)

Assessee by : Shri Suhas P Bora
Department by : Shri Ramnath P Murkude
Date of hearing : 23-04-2024
Date of pronouncement : 23-04-2024

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the *ex-parte* order dated 29.11.2023 of the CIT(A)/NFAC, Delhi relating to assessment year 2020-21.

2. The assessee in its only effective ground has challenged the *ex-parte* order of Ld. CIT(A) / (NFAC) in confirming the addition of Rs.1,66,68,637/- made by the Assessing Officer (AO) on account of cessation of liability u/s 41(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

3. Facts of the case, in brief, are that the assessee company filed its return of income on 13.02.2021 declaring total income of Rs.20,11,47,670/-. The case was selected for complete scrutiny under CASS with reason "*Taxability of business liability written off u/s 41 or any other section*". During the course of assessment

proceedings, the AO on the basis of details furnished by the assessee, noted that an amount of Rs.10,02,28,188/- was shown as Trade payable (Sundry Creditors). He further noted that some of the Sundry Creditors had written off the debt due from the assessee. However, on verification of ITR, he noted that no such income in the form of cessation of liability was reported u/s 41(1) of the Act. The AO issued notice u/s 133(6) of the Act to some of the sundry creditors and observed that two of the creditors have written off the debt due from the assessee, the details of which are as under:

<i>Name of the Creditor</i>	<i>Amount Written-off (Rs.)</i>
<i>SSM Info Tech Solutions Pvt. Ltd.</i>	<i>1,60,81,600/-</i>
<i>SWA Automation Pvt. Ltd.</i>	<i>5,87,037/-</i>
<i>Total Rs.</i>	<i>1,66,68,637/-</i>

4. He further noted that Sundry creditors have clearly stated that there were certain disputes between them and the assessee and the reminders and aggressive follow-up for 1.5 years did not yield any result. The creditors were therefore left with no option but to write-off the amount due. Further, both these creditors have executed the installation/commissioning of automation control systems on behalf of the assessee. Since the assessee neither explained the genesis of the liabilities nor the reasons behind not accounting for the deemed income u/s 41(1) on its cessation, the AO made the addition of the same to the total income of the assessee.

5. In appeal, the Ld. CIT(A) / NFAC dismissed the appeal filed by the assessee on account of non-prosecution.

6. The Ld. Counsel for the assessee at the time of hearing submitted that the Ld. CIT(A) / NFAC had given only three opportunities and all the notices were sent by mail, which could not be seen by the assessee. He submitted that in the interest of justice, the assessee should be given an opportunity to represent its case before the CIT(A) / NFAC.

7. The Ld. DR on the other hand, strongly opposed the arguments advanced by the Ld. Counsel for the assessee and submitted that despite sufficient opportunities granted by the CIT(A), the assessee did not bother to file any submissions, therefore, the order of CIT(A) be upheld and the grounds raised by the assessee, dismissed.

8. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A)/NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the AO in the instant case made an addition of Rs.1,66,68,637/- u/s 41(1) of the Act on account of cessation of liability which has been confirmed by the CIT(A) / NFAC in the *ex-parte* order passed by him. It is the submission of the Ld. Counsel for the assessee that adequate opportunity was not granted by the CIT(A) / NFAC and that an opportunity may be given to the assessee to substantiate its case before the CIT(A) / NFAC. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of CIT(A) / NFAC with a direction to grant one final opportunity to the assessee to substantiate its case by filing the requisite details and decide the issue

as per fact and law. The assessee is also hereby directed to submit the details before the CIT(A) / NFAC on the appointed date without seeking any adjournment under any pretext, failing which the CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court at the time of hearing itself i.e. 23rd day of April, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 23rd April, 2024
GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	23.04.2024		Sr. PS/PS
2	Draft placed before author	23.04.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			