

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 56/Ahd/2024
Assessment Year 2013-14**

M/s. Candor Infrastructure Gulmohar, 30 N T Road, Behind Pratham Upvan, Tandalja, Vadodarat	Vs	The DCIT Circle-1(1)(1), Vadodara
PAN: AAHFC2802K (Appellant)		(Respondent)

**Assessee Represented: Shri Hemant Suthar, A.R.
Revenue Represented: Shri V.K. Mangla, Sr.D.R.**

Date of hearing : 29-04-2024
Date of pronouncement : 30-04-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the ex-parte appellate order dated 23.06.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2013-14.

2. The Registry has noticed that there is a delay of 143 days in filing the above appeal. The assessee filed a Notarized Affidavit explaining that its Accountant, Shri Bhaskar Mehta died on heart attack on 04.12.2021 and enclosed a copy of the Death Certificate. As the firm was not doing much activities and the matter pertaining to old period, so appeal was not able to be filed within time thereby there is a delay of 143 days and requested to condone the genuine hardship cause to the assessee. We are satisfied with the reasons stated above and the delay of 143 days in filing the above appeal is hereby condoned.

3. The grounds of appeal raised by the assessee are as follows:

1. The Ld. CIT (Appeals), National Faceless Appeal Centre (NFAC) has grossly erred in law and in facts in dismissing the appeal ex-parte without affording reasonable opportunity of being heard and for want of prosecution. The appeal of the appellant may kindly be restored to the file of the Ld. CIT (Appeals), NFAC, and may please be directed to afford reasonable opportunity of being heard.

2. The Ld. CIT (Appeals), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in making the addition of Rs. 18,21,780/- being the alleged difference in the consideration of land sale ignoring to consider the fact that the consideration of Rs. 18,21,780/- on its becoming due is offered for taxation in the A.Y. 2014-15. On confirming the addition, same amount will be taxed twice. The impugned addition of Rs. 18,21,780/- being bad in law and in facts is prayed to be deleted.

3. The Ld. CIT (Appeals), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in disallowing the amount of hire charges paid of Rs. 6,02,392/-. The disallowance of Rs. 6,02,392/- made u/s. 40(a)(ia) is erroneous in law and is prayed to be allowed.

4. Your appellant craves liberty to add, alter, amend or delete any or all the grounds of appeal stated above.

4. It is seen from the appellate order, the assessee has not represented before Ld. NFAC in spite of four notices issued to the

assessee. In the absence of any details, the Ld. CIT(A) confirmed the addition made on undisclosed business receipt of Rs. 18,21,780/- and disallowance u/s. 40(a)(ia) of Rs. 6,02,392/-. The Ld. Counsel submitted before us that the assessee is ready to file all the relevant details before NFAC, which were already filed before the A.O., so that one final opportunity be given to the assessee to explain its case.

5. Ld. Sr. D.R. appearing for the Revenue has no serious objection in setting aside the matter back to the file of Ld. NFAC.

6. We have given our thoughtful consideration and perused the materials available on record. In the Interest of Principle of Natural Justice, we deem it fit to set aside the matter back to the file of Ld. NFAC to consider the case on merits after giving one proper opportunity of hearing to the assessee, to file all required details and evidences and then pass order. Needless to say, the assessee should make use of this final opportunity by filing all the required details before Ld. NFAC.

7. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 30 -04-2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 30/04/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद