

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "E", MUMBAI

Before Shri B R Baskaran, Hon'ble Accountant Member,
& Smt Kavitha Rajagopal, Hon'ble Judicial Member

ITA No. 4859/Mum/2023
(Assessment Year:2017-18)

Tempo Instruments Private Limited, 10-11, Prospect Chamber Annex, 317-21 D N Road, Fort, Mumbai 400 001.		Income Tax Officer Ward 1(3)(3), Mumbai.
PAN AAMCS6280R		
(Appellant)		(Respondent)

For the Assessee : Shri Anuj Kisnadwala
For the Revenue : Shri P D Chougule, Sr. DR

Date of Hearing : 09.05 .2024	Date of Pronouncement : 09.05.2024
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ORDER

Per B R Baskaran, Accountant Member:

The assessee has filed this appeal challenging the order dated 15.10.2023 passed by the Id. CIT(A), NFAC, Delhi and it relates to A.Y. 2017-18. The assessee is aggrieved by the decision of Id. CIT(A) in confirming the addition of profit from business and also the addition of cash credit made by the Assessing Officer.

2. At the outset, it is noticed that the learned CIT(A) was constrained to pass the order exparte, since the assessee did not comply with the notices issued by him. We also noticed that the Assessing Officer has also passed the order u/s. 144 of the Act to the best of his judgment.

3. The learned AR submitted that that the assessee had submitted the details that were called for by the Assessing Officer on five occasions. However, the Assessing Officer has passed the order without considering those details. He submitted that the assessee could not comply with the notices issued by the learned CIT(A) as they were issued during the Covid period. Accordingly, he prayed that all the issues may be restored to the file of the Assessing Officer for adjudicating them afresh.

4. The learned DR however, submitted that the learned CIT(A) had issued five notices, out of which the last notice was issued on 05.07.2023, but the assessee did not respond to the same also.

5. We heard the rival contentions and perused record. We noticed that the Assessing Officer himself records that the assessee had furnished partial details on five occasions. However, we noticed that the Assessing Officer did not consider those details while finalizing the assessment order. Before the learned CIT(A) the assessee did not appear, since the notices were issued during the Covid period. However, as pointed out by the learned DR, the last notice issued by the CIT(A) was after Covid period and the assessee did not furnish any credible explanation for not complying with the same. Since both the tax authorities have not considered the evidences furnished by the assessee, we are of the view that all the issues contested by the assessee needs to be restored to the file of the Assessing Officer for examining them afresh. However, the same will be at a cost. Accordingly, we impose a cost of ₹2,000/- (Rupees Two Thousand only) on the assessee, which shall be paid to the credit

of the Income Tax Department within two months from the date of receipt of this order. Subject to the payment of the above cost, we set aside the assessment order passed by the learned CIT(A) and restore all the issues to the file of the Assessing Officer for adjudicating them afresh. We also direct the assessee to fully co-operate with the Assessing Officer for expeditious disposal of the appeal.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 9th May, 2024.

Sd/-

(Kavitha Rajagopal)
JUDICIAL MEMBER

Mumbai, Dated : 9th May, 2024
SA

Sd/-

(B R Baskaran)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The PCIT,
4. The CIT
5. The DR, 'E' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai