

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No. 3435/Del/2023
(Assessment Year : 2018-19)

Progressive Alloys (India) Pvt. Ltd. 307, Express Tower, Azadpur Commercial Complex, Delhi – 110033 PAN No. AAGCP 1584 M (APPELLANT)	Vs.	Income Tax Officer Ward – 20(1) CR Building, Delhi (RESPONDENT)
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Assessee by	--None--
Revenue by	Shri P. N. Barnwal, CIT-D.R.

Date of hearing:	06.05.2024
Date of Pronouncement:	14.05.2024

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER :

This appeal by the assessee is directed against the National Faceless Appeal Centre (NFAC) order dated 07.09.2023 of the Commissioner of Income Tax (Appeals), New Delhi [hereinafter referred as 'CIT(A)'] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1055834394(1) relating to the Assessment Year (A.Y.) 2018-19 and arises out of the assessment order under section 144 of the Income Tax Act, 1961 [hereinafter referred as 'the Act'] .

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a private limited company who electronically filed its return of income on 17.10.2018 for A.Y. 2018-19 declaring an income of Rs.1,42,380/-. The case was selected for scrutiny under CASS for the reason “assessee has made substantial purchases from suppliers who are either Non-Filer(s) or have filed non-business ITR or reflected a substantially lower turnover in ITR as compared to turnover shown in GSTR 1 return”. Thereafter, assessment was framed u/s 144 r.w.s 143(3A) & 143(3B) of the Act vide order dated 06.04.2021 and the total income was determined at Rs.23,19,78,721/-.

4. Aggrieved by the order passed by AO, assessee carried the matter before CIT(A) who vide order dated 07.09.2023 dismissed the appeal on account of non-prosecution. Aggrieved by the order of CIT(A), Assessee is now in appeal before us and has raised the following grounds:

1. *“That under the facts and circumstances of the case, the impugned order dated 07.09.2023 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), generated vide DIN: ITBA/NFAC/S/250/2023-24/1055834394(1), dismissing the grounds of appeal and determining the total income at Rs. 23,19,78,721/-in place of returned income as returned by the assessee is bad in law on account of several grounds and assessee/appellant denies its liability to be assessed for any income other than the income already returned by the assessee and the consequential demand of Rs. 24,71,50,070/-.*

2. *That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order as the Ld. CIT(A), has dismissed the grounds of the appeal on account of absence of appellant despite several opportunities provided to the latter, but it is imperative to note that the absence of the appellant was not deliberate or intentional but due to the unavailability of the appellant during the course of appeal proceedings.*
 3. *That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order as the Ld. CIT(A) have failed to appreciate the fact that during the period of appeal proceedings the appellant could not reply to the notices issued by the CIT(A) due to the reasons beyond his control and also due to the health issues being faced by the director of the assessee company.*
 4. *That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order, as the Ld. CIT(A) has upheld the addition made by the Ld. AO in the assessment order dt. 06.04.2021 passed without following the due provisions of law and without having proper jurisdiction.*
 5. *That under the facts and circumstances of the case the Ld. AO has erred in law as much as in fact while passing the impugned order, as the Ld. AO have made addition on account of bogus expenditures, whereas the Ld. AO have failed to appreciate the fact that none of the purchase made by the assessee was ingenuine and the assessee has also provided all the details relating to the parties at the time of assessment proceedings.*
 6. *That appellant craves to leave, alter, amend or modify the grounds of appeal before or during the hearing of the appeal.*
 7. *That each ground is independent and without prejudice to each other.”*
5. On the date of hearing none appeared on behalf of the assessee nor any adjournment application was filed despite the fact that the notice of hearing was issued to the assessee. In such a

situation and in the absence of any co-operation from the side of assessee, we proceed to dispose of the appeal ex-parte qua the assessee, after considering the submissions of Learned DR and the material on record.

6. Before us, at the outset, Learned DR supported the order of AO and submitted that the required details in the assessment order were furnished by the assessee. AO, therefore, for the reasons noted in the order made the additions. He submitted that even before CIT(A) there was no appearance from the side of assessee. CIT(A), thereafter, for the reasons noted in the order has dismissed the appeal. He submitted that before the Tribunal also assessee has not appeared which shows the callous approach of the assessee. He, therefore, submitted that order of CIT(A) be upheld.

7. We have heard the learned DR and perused the material available on record. The perusal of CIT(A) order reveals that CIT(A) has passed an *ex parte* order without deciding the issue on merits. Sub Section (6) of Section 250 of I. T. Act mandate the CIT(A) to state the points in dispute and thereafter assign the reasons in support of his conclusion. We are of the view that by dismissing the appeal without considering the issue on merits, learned CIT(A) has failed to follow the mandate required in Sub Section (6) of Section 250 of the Act. Further it is also a well settled principle of natural justice that sufficient opportunity of hearing should be offered to the parties and no parties should be condemned unheard. In view of these facts, we set aside the impugned order of CIT(A) and restore

the issue to the file of CIT(A) for re-adjudication of the issues after granting sufficient opportunity of hearing to the assessee. Assessee is also directed to furnish the details called for by the lower authorities. In view of our decision to restore the issue to CIT(A), we are not adjudicating on merits the grounds raised by the assessee. **Thus the grounds of assessee are allowed for statistical purposes.**

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

Order pronounced in the open court on 14.05.2024

**Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

**Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER**

Date:- 14.05.2024

Priti Yadav, Sr. PS*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI