

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.675/Bang/2024
Assessment Year: 2012-13

M/s. Balaji Constructions No.2850/C E Block, 2 nd Stage 13 th Main, Rajajinagara Bangalore 560 010 PAN NO : AAKFB4496R	Vs.	ITO Ward-2(2)(2) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri H. Guruswamy, A.R.
Respondent by	:	Shri V. Parithivel, D.R.

Date of Hearing	:	16.05.2024
Date of Pronouncement	:	16.05.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2012-13 dated 24.7.2023 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”). The assessee has raised following grounds of appeal:

1. *“The impugned Order u/s. 250 of the Act dated: 24-07-2023 passed by the Ld. CIT(A), National Faceless Appeal Centre, Delhi is opposed to law, facts and circumstances of the case.*
2. *The Ld. CIT(A) has erred in passing the appellate order ex-parte on the ground of non-compliances of Notices without appreciating the merits of the case*
3. *The Ld. CIT(A) has erred in confirming the addition of Rs.1,76,61,000/- placing reliance on the observations made by the A.O. in the assessment Order without appreciating the facts and circumstances of the case on merits*

4. *The Ld. CIT(A) has erred in holding a sum of Rs.1,76,61,000/- as income of the assessee u/s 69 of the Act which is not applicable to the assessee's case as the assessee was not found to be the owner at point of time in the previous year relating to the sum of Rs.1,76,61,000/- which represented the advances received from the customers for purchase of sites in the Layout proposed to be formed by the assessee.*
5. *The Ld. CIT(A) has erred in holding a sum of Rs.1,76,61,000/- as income of the assessee being the cash remitted into the bank without appreciating the fact that the cash so deposited by itself cannot be construed as income chargeable to tax u/s 69 of the Act which was invoked by the AO on misplaced perception.*
6. *The Appellant craves leave to add, alter, amend and delete any of the grounds at the time of hearing."*

2. There was a delay of 205 days in filing the appeal before this Tribunal. The assessee filed a condonation petition stating that assessee was a defunct company and business of the assessee was closed due to adverse condition and the assessee was not regularly watching the income tax portal and the assessee was lost the track of the income tax assessment. The appeal filed for the assessment year 2012-13 was disposed of by ex-parte order by NFAC on 24.7.2023 and the same was downloaded from the system by the staff of assessee concern only in first week of April, 2024. Thereafter, steps have been taken to file appeal before this Tribunal and caused delay of 205 days in filing the appeal before this Tribunal.

3. We have heard the rival submissions and perused the materials available on record. There was a delay of 205 days in filing the appeal before this Tribunal. The assessee explained that assessee was a defunct company and business of the assessee has been closed and as such, it was lost track of the income tax appeals filed before the NFAC. As such, it is not looked into the ITBA portal. Thus, it caused delay. We find that there is a good and sufficient reason in filing the appeal belatedly by 205 days and the delay is condoned and appeal is admitted for adjudication.

3.1 In this case, ld. AO has given only 3 days time vide notice dated 23.12.2019 to reply on or before 26.12.2019 by 1115AM. The assessee was not able to furnish necessary details before ld. AO. Hence, he made an addition of Rs.1,76,61,000/- towards cash deposit into assessee's bank account. Before NFAC, there was no response from the assessee by ex-parte order and NFAC confirmed the addition. Before us, ld. A.R. submitted that the NFAC has given the following notices, which are reproduced below:

Sr.No.	Date of Notice issued	Date of hearing	Particulars
1.	10/03/2020	19/03/2020	Notice issued, but no response from the appellant
2.	04/08/2020	12/08/2020	Notice issued, but no response from the appellant
3.	29/12/2020	13/01/2021	Notice issued, but no response from the appellant
4.	15/03/2021	24/03/2021	Appellant adjournment letter
5.	16/09/2021	21/10/2021	Notice issued, but no response from the appellant
6.	23/11/2021	08/12/2021	Notice issued, but no response from the appellant
7.	26/09/2022	11/10/2022	Notice issued, but no response from the appellant
8.	03/11/2022	18/11/2022	Notice issued, but no response from the appellant
9.	04/07/2023	12/07/2023	Notice issued, but no response from the appellant

3.2 Since the assessee was a defunct company, it was lost track of the income tax appeals filed before the NFAC. There is no dispute that assessee was a defunct company and there were communication gap between the partners and income tax practitioner. As such, there was no proper representation from NFAC. In our opinion, it is appropriate to remit the entire issue in dispute to the file of ld. AO to carry out necessary enquiry after giving an opportunity of hearing to the assessee and to decide it afresh. Accordingly, the issue in dispute is remitted to the file of ld. AO for fresh consideration.

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

Order pronounced in the open court on 16th May, 2024

Sd/-
(Keshav Dubey)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 16th May, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.