

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**आयकरअपील सं./ ITA No. 1349/CHNY/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)**

Serene Senior Living Pvt. Ltd.,
No.484-485, Ground Floor,
Pantheon Road, Egmore,
Chennai – 600 008.

Vs. The Deputy Commissioner of
Income Tax,
Corporate Circle 2,
Coimbatore

[PAN: AACCC 9574C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri D. Anand, Advocate
: Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing

: 14.05.2024

घोषणा की तारीख /Date of Pronouncement

: 17.05.2024

आदेश / O R D E R

MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax(Appeals)(NFAC) Delhi [CIT(A)] dated 21.09.2023 for Assessment Year 2017-18.

2. The registry has noted delay of 3 days in filing the appeal. Considering the period of delay and reasons deposed at paras 3 of

affidavit given by Managing Director of assessee company, we find it sufficient cause hence condone the delay and admit the appeal for adjudication.

3. The assessee has raised the following grounds:-

1. The order passed by the National Faceless Appeal Centre (NFAC) is erroneous in law and opposed to facts and circumstances of the case.

2. The National Faceless Appeal Centre (NFAC) erred in disposing the appeal without providing adequate opportunity to the appellant. The said order is opposed to the provision of law and principles of natural justice.

3. The NFAC erred in not considering the various documentary evidences filed by the appellant in support of its claim of bad debt.

4. The National Faceless Appeal Centre (NFAC) erred in observing that no evidence was filed by the appellant either during the course of assessment or during the course of appeal proceedings regarding the fact that the amount advanced was taken into account in computing the total income of the year in which the impugned advance was made so as to become eligible for deduction.

5. The National Faceless Appeal Centre (NFAC) while disallowing the appellants claim of bad debt failed to see that the said amounts were advanced during normal course of appellant business and that the same has been written off since the aforesaid advances could not be recovered.

6. The National Faceless Appeal Centre (NFAC) ought to have seen that even if the condition laid down u/s. 36(1)(vii) r.w.s. 36(2) of the IT Act are not satisfied the said amount written off shall qualify to be allowed u/s. 37(1) of the IT Act, 1961,.

For these and other grounds that may be rendered at the time of hearing it is most humbly prayed that the Hon'ble Tribunal may be pleased to allow the appellants appeal and thus render justice.

4. Brief facts of the case is that the assessee e-filed its return of income on 30.11.2017 declaring a total income of Rs.Nil under normal provisions and loss of Rs.(-) 8,44,05,488/- book profit u/s

115JB. Accordingly, the assessment was completed in the case vide order u/s 143(3) dated 28.12.2019 assessing the income at Rs.23,75,42,860/- under normal provisions and loss of Rs.(-) 8,44,05,488/- book profit u/s 115JB of the Act. Assessing officer (In short 'AO') in the assessment order has disallowed the assessee's claim of bad debts written off to the tune of Rs.30,19,19,561/-.

5. Further, the appellant filed the appeal against the order under section 143(3) of the Act dated 28.12.2019 before the Ld. CIT(A) wherein the assessee did not appear after taking adjournments before the first appeal authority. Accordingly, the assessment was confirmed on merits against which assessee is in further appeal before us.

5. At the outset, Ld. Counsel for the appellant submitted that Ld. CIT(A) had not in true sense followed the principles of natural justice. Ld. Counsel for the appellant further prayed that if an adequate opportunity of hearing is given to appellant, appellant would prosecute its case properly before the Ld. CIT(A). The Ld. Sr. DR pleaded for dismissal of the appeal on the ground that the assessee failed to appear before the Id. first appellate authority.

6. Though we concur with the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and grant another opportunity of hearing to the assessee. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. CIT(A) for adjudication on merits after affording proper opportunity of hearing to the assessee subject to cost of Rs.5000/- which shall be deposited by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the same will be furnished by the Assessee before Ld. CIT(A). The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal on merits.

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

Order pronounced in the open court on 17th May, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated : 17-05-2024

RSR

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF