

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

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No. 733/Bang/2024
Assessment year : 2013-14

Mangala Enterprises, 123, 2 nd Cross, 5 th Block, Koramangala, Bangalore – 560 095. PAN : AAPFM 3212M	Vs.	The Income Tax Officer, Ward 4(3)(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Sundar N.P.S., Advocate
Respondent by	:	Shri Subramanian S., Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	05.06.2024
Date of Pronouncement	:	19.06.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the ex parte order dated 23.02.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2013-14 dismissing the appeal for non-prosecution.

2. The brief facts are that as per information the AO noted that in spite of assessee having taxable income it did not file return of income and assessee had made transactions of TDS return – payment to

contractor (s. 194C) of Rs.1,26,405 and Rent received (TDS Form 26Q, S. 194I(b). Notices u/s. 148 was issued for filing return of income which was not complied within the stipulated time. Further notices on different dates u/s. 142(1) was issued to assessee to file return along with other details. The assessee did not furnish any information or filed return of income. Penalty proceedings u/s. 271(1)(b) were separately initiated for non-compliance of notices. Finally after a show cause notice u/s. 144 was issued to the assessee and it was not responded, the AO completed assessment u/s. 144 and assessed income at Rs.1,22,92,720.

3. The assessee's appeal was instituted by the CIT(Appeals) on 28.04.2022 and first notice was issued on 07.09.2023 and date was fixed for hearing on 22.09.2023 and subsequently other two notices were issued to the assessee on 24.01.204 and 09.02.2024. The assessee did not respond to any of the notices during the appellate proceedings. The Id. CIT(Appeals) on the basis of material available before him passed ex-parte order and dismissed the appeal. Against this, the assessee is in appeal before the ITAT.

4. Before us, the Id. AR submitted that the assessment order was passed during COVID period and managing partner fell ill and associated sickness due to aftermath of Covid and therefore could not concentrate on the business activities. The notices were sent by the CIT(Appeals) electronically which could not be seen in time and accordingly the ex-parte order was passed by the CIT(A). He therefore

requested that if a chance is given to the assessee, he undertook to respond to the notices and substantiate the case of the assessee with evidence before the lower authorities.

5. The ld. DR relied on the order of lower authorities and objected to sending back the matter to lower authorities.

6. Considering the rival submissions, we note that assessment was completed u/s. 147/144 r.w.s. 144(b). The CIT(Appeals) issued various notices on different dates, however, the assessee did not respond to the notices and in this regard the assessee has filed affidavit explaining the reasons for non-appearance before lower authorities. Considering the prayer of the assessee and in the interest of justice, we remit the issue to the AO for fresh consideration and decision as per law. The assessee is directed to file necessary documents that would be essential and required for substantiating his case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings and in case of further default, the assessee shall not be entitled to any leniency.

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

Pronounced in the open court on this 19th day of June, 2024.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 19th June, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.