

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

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA 1454/Mum/2024
(Assessment year : 2013-14)

Krishna Sheet Processors Pvt Ltd, 801, Business Classic, Chincholi Bunder Malad (W), Mumbai-400 064 PAN : AAACK9040M	vs	DCIT 4(3)(1), Mumbai Aayakar Bhavan, Church Gate, Mumbai-400 020
APPELLANT		RESPONDENT

Assessee by : S.M.Bandi
Respondent by : Shri P.D. Chougule (Addl.CIT) SR DR
Date of hearing : 19/06/2024
Date of pronouncement : 20/06/2024

ORDER

PER ANIKESH BANERJEE, J.M:

Instant appeal of the Assessee is preferred against the order of the Learned National Faceless Appeal Centre, Delhi[for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2013-14, date of order 07.02.2024. The impugned order was emanated from the order of the Ld. Deputy Commissioner of Income-tax-12(3)(1), Mumbai (in short, 'the A.O.') passed under section 143(3) of the Act date of order 29/03/2016.

2. The assessee has taken the following grounds of appeal:-

“(1) On the facts and Circumstance of the case and in law,

- 1. The Ld. CIT(A) grossly erred in dismissing the Appeal without giving the show-cause notice for condoning the delay in e-filing the appeal.*
- 2. The Ld. CIT(A) erred in not understanding that there was no delay in filing the appeal as the appeal was filed in time in the physical mode and thereafter the appeal was e-filed & thereby the Ld. CIT(A) has grossly erred in law as well as on facts in dismissing the appeal in limine which is against the principles of the natural justice.*

(2) On the facts and Circumstance of the case and in law, the Ld. CIT(A) has grossly erred in not dealing with the following grounds of appeal raised before him

- 1. The Id. A.O. has grossly erred in law as well as on facts in treating the sum of Rs. 2,33,71,927/- as Deemed Dividend u/s. 2(22)(e) of the I.T. Act.*
- 2. The Id. A.O. has grossly erred in law as well as on facts in making a Disallowance of Rs. 11,57,531/- u/s. 14A r.w.r. 8D of the I.T. Act.*
- 3. The Id. A.O. has grossly erred in law as well as on facts in not granting the credit of Tax Deducted at Source of Rs. 11,97,920/-.*

The appellant craves, leaves to add, to amend, alter, modify and/or delete any of the above Grounds of Appeal on or at the time of hearing.”

3. The brief facts of the case are that the assessment was completed with an addition amount of 2,33,71,927/- U/s 2(22)(e) of the Act, amount to Rs.11,57,531/- U/s 14A read with rule 8D of Income Tax Rules, 1962 (in short, ‘the Rules’) and disallowance of credit of interest amount of Rs.11,97,920/-. Against

these additions, the aggrieved assessee filed an appeal before the Id. CIT(A). But Ld.CIT(A) found that the assessment order was served on dated 30/03/2016 and the appeal petition was filed belatedly. On that reason, the appeal of the assessee was dismissed. Being aggrieved on the appeal order, the assessee filed an appeal before us.

4. Ld.AR argued and placed that the assessment order was passed on dated 29/03/2016 and served on dated 30/03/2016. After receiving the assessment order, the assessee filed the appeal petition physically on dated 27/04/2016. Copy of the Form No.35 is placed before the Bench. After that the assessee filed the on-line appeal before the CIT(A) which is in delay. But without considering the same or issuing any show cause notice, the appeal of the assessee was dismissed. The Ld.AR has drawn our attention in relevant paragraph of the appeal order which is reproduced as below:-

"2. In this case as per the facts recorded in the Form 35 the order dated 29.03.2016 was received by the appellant on 30.03.2016. As such the appeal filed by the appellant on 06.06.2016 is a delayed appeal. The appeal is not filed in time and the appellant did not mention about the delay in filing the appeal in column No. 14 of Form 35. The appellant in Column No. 14 of Form 35 stated as "NO" and in Column No. 15 the appellant did not mention any reasons for the delay.

***2.1** Therefore, in the facts and circumstances of the case, I am of the considered view that there is clearly a failure on part of the assessee in filing the appeal in time and lack of diligence and inaction on its part which could have been avoided by the assessee if it had exercised due care and attention.*

3. In the result, the appeal filed by the assessee is dismissed as barred by limitation."

5. The Ld.DR argued and only relied on the order of the revenue authorities.
6. We heard the rival submission and considered the documents available in the record. Considering the appeal before the Id. CIT(A), the assessee was ignorant for filing the on-line appeal but was not reluctant for filing the appeal. The appeal petition was filed physically on dated 27/04/2016 which is within the limitation. The Id.DR had not made any objection about the submission of the Id.AR before the bench. The order passed by Id.CIT(A) is violation of natural justice and the reasonable opportunity was denied. Only on the basis of the verification of Form No.35, the appeal was dismissed. We find that there is no merit in accepting the impugned appeal order and the said order is set aside. We are not expressing any views on the merits of the case to limit the appeal procedure before the Id. CIT(A). The Id.CIT(A) is directed to adjudicate the petition and to pass a speaking order considering the grounds of the assessee. Needless to say, the assessee should get a reasonable opportunity of hearing in the set aside proceedings.
8. In the result, the appeal of the assessee bearing **ITA No.1454/Mum/2024** is allowed for statistical purpose.

Order pronounced in the open court on 20th day of June, 2024.

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 20/06/2024
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), **ITAT, Mumbai**