

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.343/PUN/2024
निर्धारण वर्ष / Assessment Year : 2012-13

Patodia Forgings and Gears Limited, Gat No. 150/2, Village-Mahalunge, Chakan Talegaon Road, Chakan, Pune-410501 PAN : AAIECP9266C	Vs.	The Assistant Commissioner of Income Tax, Circle – 8, Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Sarvesh Khandelwal
Department by :	Shri Sourabh Nayak
Date of hearing :	08-05-2024
Date of Pronouncement :	08-05-2024

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 22.12.2023 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi ["CIT(A)"] pertaining to Assessment Year ("AY") 2012-13.

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

- “1. On facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the reopening of assessment under section 147 is not in accordance with the framework of the provisions of the Act and bad in law. The appellant be granted just and proper relief in this respect.
2. Without prejudice to 1st ground, on facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the addition of Rs.55,75,000/- on account of disallowance of foreign currency transaction or finance cost debited to profit and loss account u/s 37 is not in accordance with the provisions of the Act. The appellant be granted just and proper relief in this respect.
3. Without prejudice to the above grounds, on facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the depreciation u/s 32 be allowed on account capital addition of Rs.55,75,000/- in accordance with the provisions of the Act. Just and proper relief be granted to the appellant on this score.
4. The appellant prays to be allowed to add, amend, modify, rectify, delete, and raise any grounds of appeal at the time of hearing.”

3. Briefly stated the assessee company is engaged in the business of manufacturing of auto components. It filed its return of income for AY 2012-13 on 20.09.2012 declaring income of Rs.9,92,23,250/-. The case was selected for scrutiny through CASS and assessment was completed on total income of Rs.9,97,81,890/- on 30.03.2015 u/s 143(3) of the Income Tax Act, 1961 (**the "Act"**). Subsequently, the case was reopened u/s 147 of the Act and notice u/s 148 of the Act was issued on 30.03.2019 which was served upon the assessee. The reason for reopening is stated to be large amount of outstanding loans aggregating to Rs.32,29,88,889/-, part of which had been utilized for purchase of foreign capital assets. It was also found that the assessee had debited an amount of Rs.3,34,98,213/- to finance cost which include, inter alia Rs.55,75,000/- being net (gain)/loss on foreign currency transaction and translation. As per the Ld. Assessing Officer (**"AO"**) the said expenditure of Rs.55,75,000/- related to the interest expenditure incurred in relation to loan amount availed by the assessee which is disallowable u/s 37 of the Act.

4. In response to notice u/s 148 of the Act the assessee vide its reply dated 27.04.2019 requested that its return filed on 20.09.2012 be treated as return filed in response to notice u/s 148 of the Act. Despite specific requirement to file a fresh return made by the Ld. AO, the assessee chose not to do so. The Ld. AO proceeded to complete the reassessment proceedings. He completed the reassessment on total income of Rs.10,53,56,890/- on 28.11.2019 u/s 144 r.w.s. 147 of the Act including therein addition of Rs.55,75,000/- being expenses claimed on account of loans on foreign currency transaction and translation.

5. The assessee carried the matter in appeal before the Ld. CIT(A) challenging the reopening of assessment u/s 147 as not in accordance with the law as also the addition of Rs.55,75,000/- by way of disallowance of foreign currency transaction or finance cost u/s 37 of the Act. Without prejudice to the above, it was alternatively claimed that depreciation u/s 32 be allowed on Rs.55,75,000/- as per law.

6. According to the Ld. CIT(A)/NFAC the assessee has not replied to any of the notices issued although duly served on e-mail ID provided. He, therefore, upheld the order of the Ld. AO and dismissed the appeal of the assessee as the assessee did not file any submission/documentary

evidence in support of its claim in appellate proceedings before him. This has brought the assessee before the Tribunal.

7. The Ld. AR submitted that the e-mail ID on which the Ld. CIT(A) issued notices were of the employee of the assessee company. The notices, however, were not received by the company and/or any of its authorized person. It is therefore urged that the matter may be sent back to the Ld. CIT(A) for adjudication afresh on merits.

8. The Ld. DR had no objection.

9. We have heard the Ld. Representatives of the parties and perused the records. We are of the view that in the interest of justice and fair play, it would be judicially expedient to restore the matter back to the file of Ld. CIT(A) to decide the appeal of the assessee afresh on merits after allowing reasonable opportunity of being heard to the parties. The assessee shall Co-operate fully in appellate proceedings. We order accordingly.

10. In the result, the appeal of assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 08th May, 2024.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 08th May, 2024.

रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune