

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

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER  
AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.1264/M/2024  
Assessment Year: 2019-20**

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| <b>M/s. Trinity Kitchenware Ltd.</b><br>427, B- Wing,<br>Orchid Road Mall,<br>Survey No.- 169,<br>Royal Palm,<br>Aarey Milk Colony,<br>S.O., Mumbai- 400065.<br><b>PAN: AAECT2771N</b> | Vs. | <b>The Commissioner of Income (Appeals) - National Faceless Appeal Centre.</b><br>Mittal Court,<br>3 <sup>rd</sup> Floor,<br>Room No. 7 & 8,<br>Nariman Point,<br>Mumbai- 400021. |
| (Appellant)  |     | (Respondent)  |

**Present for:**

Assessee by : Ms. Jigna Jain, Adv.  
Revenue by : Shri P. D. Chougule (Addl. CIT), SR. D.R.

Date of Hearing : 11 . 06 . 2024  
Date of Pronouncement : 25 . 06 . 2024

**O R D E R**

**Per: Ratnesh Nandan Sahay, Accountant Member:**

1. This appeal has been filed against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short] vide its DIN & Order No. ITBA/APL/S/250/2023-24/106054083(1) dated 06/02/2024 for assessment year 2019-20.

2. Following grounds of appeal have been raised:

1. *“The Ld. Assessing Officer as well as CIT Appeal has erred in law and in facts in passing order under section 143(1) of the Act dated 25.10.2020 which is invalid and bad in the eyes of law.*
2. *The Ld. Assessing Officer as well as CIT Appeal has erred in law and in facts in passing the order against the natural justice as opportunity of being heard is not given.*
3. *The Ld. Assessing Officer as well as CIT Appeal has erred in law and in facts in making disallowance of expenditure u/s 40(a)(ia) of the Act amounting to Rs.1,37,11,907/-.*
4. *The Ld. Assessing Officer as well as CIT Appeal has erred in law and in facts in making disallowance of expenditure u/s 36(1)(va) of the Act amounting to Rs. 87,207/-.*
5. *The Ld. Assessing Officer as well as CIT Appeal has erred in law by ignoring the fact that the company was doing main business with the Jet Airways which went into financial crisis, the company did not receive any amount, therefore there was delay in making payment under section 40(a)(ia) of the act.*
6. *The Ld. Assessing Officer as well as CIT Appeal has erred in law in facts by not considering the fact that the assessee was facing financial crisis due to the non- receipts of money from Jet Airways which was gone into financial crisis.*
7. *The Ld. Assessing Officer as well as CIT Appeal has erred in law and in facts by not considering that non- payment of statutory dues has arisen because the factory and office premises were sealed by the Abhudaya Co-operative Bank for non-payment of their loan installments.*
8. *The Ld. Assessing Officer has erred in law and in facts in charging interest u/s 234A, 234B, 234C of the Act.*
9. *The Ld. Assessing Officer has erred in law and in facts in charging interest u/s 234F of the Act.*

*10.The appellant craves leave to add to, amend, alter or delete all or any of the foregoing grounds of appeal.”*

3. Though, several grounds of appeal have been raised, however, there are mainly, two grounds which require to be adjudicated: Ground No.1- disallowance of Rs.1,37,11,907/- u/s. 40(a)(ia) of the Income Tax Act and Ground No.2- disallowance on account of late payment of employee's contribution to PF/ESIC. Rests of the grounds are consequential in nature.
4. The facts of the case, in brief, are that the appellant is a limited company engaged in the business of kitchenware. For the assessment year under consideration, the appellant filed its return of income on 28/07/2020 declaring a total income at Rs.3,49,236/-. Subsequently, the return was processed and intimation order u/s.143 (1) of the Act dated 25/10/2020 was issued to the assessee on a total income of Rs.1,41,48,350/- with two adjustments- the first adjustment was on account of disallowance of expenditure amounting to Rs.1,37,99,114/- u/s.40(a)(i) of the Act on account of non-compliance with the provisions of Chapter XVII-B and second, on account of disallowance of Rs.87,207/- u/s.36(1)(va) of the Act on the ground that the payment not credited to the employees account on or before the due date.

5. Aggrieved by the order u/s.143 (1) of the Act dated 25/10/2020, the assessee filed appeal before the Ld. CIT (A) but made no compliance to the notices issued by the Ld. CIT (A). It was also noted by him that there was huge delay in filing appeal before the CIT (A). The Ld. CIT (A), therefore, decided the appeal on basis of the facts available on record and confirmed the additions/disallowances made by the CPC on both the counts vide its order dated 06.02.2024 passed u/s 250 of the Act.
6. The appellant has filed this appeal against the impugned order of the Ld. CIT (A). The appellant also filed an Affidavit dated 8<sup>th</sup> June 2024 stating therein that the intimation u/s.143(1) of the act was passed in the case of the appellate company on 25/10/2020 by making huge adjustments. However, the appeal was not filed in time and also no compliance was made in response to the notices issued by the Ld. CIT(A) due to onset of Covid-19 pandemic and the company could not carry out any business during this period. The appeal was dismissed ex-parte by the Ld. CIT (A) as the appellant could not explain its case before him. The appellant, therefore, prayed that one more opportunity be provided to him so that he could explain his case before the Ld. CIT (A).
7. We have considered the prayer made by the appellant stated as above and set aside the order of the Ld. CIT (A) and restore the matter back

to him to give another opportunity of being heard to the appellant and decide the issue afresh. The appellant is also directed to appear before the Ld. CIT (A) and produce all relevant material documents/evidences as required by the Ld. CIT (A) to decide the issues.

8. In the result, the appeal is allowed in aforesaid terms.

**Order pronounced in the open court on 25.06.2024.**

**Sd/-  
(PAVAN KUMAR GADALE)  
JUDICIAL MEMBER**

**Sd/-  
(RATNESH NANDAN SAHAY)  
ACCOUNTANT MEMBER**

Mumbai, Dated: 25.06.2024  
*Snehal C. Ayare, Stenographer*

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.