

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.: **1271 & 1272/CHNY/2023**

निर्धारण वर्ष/Assessment Years: 2012-13 & 2013-14

Aston Power & Steel Pvt. Ltd.,

No.27B, Mooker Nallamuthu Street, Vs.
Parrys,
Chennai – 600 001.

The Income Tax Officer,

Corporate Ward-1(1),
Chennai.

PAN: AAICA 4259Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Ms. T.V. Muthu Abirami, Advocate
for Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 02.07.2024

घोषणा की तारीख/Date of Pronouncement

: 02.07.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

These appeals by the assessee are arising out of the different orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1056019949(1) & 1056020971(1) both dated 13.09.2023. The assessments were framed by the Income Tax Officer, Corporate Ward 1(1), Chennai for the assessment years 2012-13 & 2013-14 u/s.143(3) r.w.s. 147 &

143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide orders dated 24.11.2017 & 22.03.2016 respectively.

2. At the outset, the Id.counsel for the assessee drew our attention to **ITA No.1271/CHNY/2023** for assessment year 2012-13 and took us through the order of CIT(A)-NFAC and gone through para 4 at page 4. The Id.counsel stated that the CIT(A)-NFAC has not at all adjudicated the issue on merits and this order of CIT(A)-NFAC is ex-parte. The Id.counsel stated that she is seeking relief only that matter be restored back to the file of the CIT(A) with a direction to adjudicate the issue after hearing the assessee and by passing a speaking order. To this, the Id.Senior DR could not object.

3. After hearing rival contentions and gone through facts and circumstances of the case, we noted that there is no adjudication by CIT(A)-NFAC on merits as we have gone through para 4 of the appellate order at page 4. It is also clear that the CIT(A)-NFAC has not adjudicated the issue after hearing the assessee rather this appeal is dismissed without providing opportunity of being heard. Hence, we set aside the order of CIT(A)-NFAC and remand the

matter back to his file for fresh adjudication for allowing reasonable opportunity of being heard to the assessee.

4. Coming to **ITA No.1272/CHNY/2023**, the Id.counsel for the assessee drew our attention to Ground Nos.2 & 3, which read as under:-

2. The National Faceless Appeal Centre (NFAC) erred in dismissing the appellants due to technical reason that the verification of appeal is not in accordance with Income Tax Rules appeal as prescribed under Rule 45(2) which requires the that verification of appeal in the appeal form is to be done by the Managing Director of the company.

3. The National Faceless Appeal Centre (NFAC) ought to have seen that when the appeal was filed no defect notice was issued to the appellant and that the appellant was unaware of the defect alleged in the impugned order. Even at the stage of Adjudicating the appeal no show cause notice was issued to the appellant for dismissing the appeal on technical grounds by invoking section 140(c) of the Income Tax Act. The said decision is in utter violation of provision of law and principles of natural justice.

The Id.counsel also took us through the order of CIT(A)-NFAC, para 4 at page 8 and stated that the order of CIT(A)-NFAC is not all speaking and there is no adjudication on merits except few lines. The Id.counsel drew our attention to para 4 of the CIT(A)-NFAC order. The Id.counsel stated that the CIT(A) has simply dismissed the appeal for technical reason that verification of appeal is not in accordance with Rule 45(2) of the Income Tax Rules, 1962.

5. When these facts were confronted, the Id.Senior DR could not point out any contrary argument.

6. After hearing rival contentions and going through the facts of the case, we find that the order of CIT(A)-NFAC is totally non-speaking and also dismissed the appeal for technical reason that verification is not proper. Therefore, we set aside the order of CIT(A)-NFAC and direct him to allow one more opportunity to the assessee to rectify the technical defect and thereafter hear the appeal on merits and pass a speaking order on merits.

7. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 2nd July, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 2nd July, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.