

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.5114/Del/2019
Assessment Year: 2015-16

Siba International, D-11, LGF, Maharani Bagh, New Delhi	Vs.	JCIT, Range-63, New Delhi
PAN :ABHFS7063F		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Vivek Kumar Upadhyay, Sr. DR

Date of hearing	03.07.2024
Date of pronouncement	09.07.2024

ORDER

PER SAKTIJIT DEY, VICE-PRESIDENT

This is an appeal by the assessee against order dated 19.02.2019 of learned Commissioner of Income Tax (Appeals)-20, New Delhi, pertaining to assessment year 2015-16.

2. Registry has pointed out delay of 28 days in filing the appeal. An undated application signed by learned counsel for the assessee seeking condonation of day is available on record. After going through the contents of the delay condonation application,

we are inclined to condone the delay and admit the appeal for adjudication.

2. When the appeal was called out, none appeared on behalf of the assessee. Perusal of record reveals that from the first date i.e. 22nd June, 2022 when the appeal was first fixed for hearing till today, though, it has been listed for hearing on more than nine occasions, however, on none of the dates the assessee has appeared. It further appears from record, though, multiple notices of hearing have been issued to the assessee in the address for communication provided in the memorandum of appeal, however, all such notices have returned back unserved. Even, the assessee has not taken care to inquire about the fate of its appeal. These facts clearly reveal that the assessee is not, at all, interested in pursuing the present appeal. Due to total lack of interest and non-cooperation from assessee's side, we are inclined to dispose of the appeal ex-parte, qua the assessee, after hearing learned Departmental Representative and based on the materials on record.

3. Though, the assessee has raised multiple grounds, however, the issue in dispute relates to the addition of Rs.59,06,353/-

Insofar as this issue is concerned, briefly the facts are, the assessee is a partnership firm and stated to be engaged in the business of export of frozen meat. For the year under dispute, the assessee had filed its return of income on 01.10.2015 declaring income of Rs.94,93,280/-. In course of assessment proceedings, the Assessing Officer noticed that, though, the assessee has claimed duty drawback of Rs.1,07,10,058/-, however, in the year under consideration, the assessee has actually received an amount of Rs.48,03,705/- and Rs.81,30,970/- was received in the immediately succeeding assessment year. The Assessing Officer observed that, though, the assessee follows mercantile system of accounting, but for duty drawback the assessee is following cash system, which is against the provisions of section 145 of the Act. He observed, though, the assessee claimed duty drawback of Rs.1,07,10,058/- for the year under consideration, however, it offered an amount of Rs.,48,03,705/- on receipt basis. Whereas, he did not offer the balance amount of Rs.59,06,353/- received in the succeeding assessment year. The Assessing Officer held that since the assessee is maintaining its accounts on mercantile basis, it should have offered the duty drawback on

accrual basis and not on receipt basis. Therefore, he added back the amount of Rs.59,06,353/- to the income of the assessee. The addition so made was also confirmed by learned first appellate authority.

4. We have heard learned Departmental Representative and perused the materials on record. The assessee has neither appeared nor furnished any valid submissions to controvert the findings of the departmental authorities. Thus, in absence of any plausible explanation from the assessee regarding the accounting treatment given to the duty drawback, we are inclined to uphold the decision of learned first appellate authority by dismissing the grounds.

5. In the result, appeal is dismissed.

Order pronounced in the open court on 9th July, 2024

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 9th JULY, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi