

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH MUMBAI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.1227/MUM/2024
Assessment Year: 2017-18

Raniben Khimji Patel 602, 6 th Floor, Patit Tower, August Kranti Marg, Kemps Corner, Mumbai – 400036 (PAN : AILPP0812E)	Vs.	Assistant Commissioner of Income Tax, Circle -19(3), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Ms. Hiral Savla, FCA
Revenue : Smt. Mahita Nair, Sr. DR

Date of Hearing : 02.07.2024
Date of Pronouncement : 11.07.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order no. ITBA/NFAC/S/250/2023-24/1043444536(1), dated 15.06.2022 passed against the assessment order by Assistant Commissioner of Income Tax, Circle-19(3), Mumbai, u/s. 144 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 16.12.2019 for Assessment Year 2017-18.

2. Grounds taken by the assessee are reproduced as under:

“1. The Id. CIT(A) order is without jurisdiction, invalid and against the principles of natural justice

2. The Id. CIT(A) erred in facts and law in confirming the disallowance of the interest expense amounting to Rs.41,76,081/- u/s 57 of the Act and be directed to provide adequate opportunity of being heard in view of unforeseen facts and circumstances of the case

3. Your assessee prays that-

a. CIT(A) order to be treated as invalid and infructuous;

b. The disallowance of interest expenditure of Rs.41,76,081/- u/s.57 of the Act be deleted,

c. Any such other relief as may be deemed fit, be granted

4. The assessee craves leave to add, amend, alter or delete any or all the grounds of appeal”

3. We note that there is a delay of 580 days in the filing the present appeal before the Tribunal for which petition for condonation of delay along with affidavit is placed on record. From the perusal of the same and considering the explanation furnished, we find it appropriate to condone the delay and adjudicate upon the matter.

4. Brief facts of the case are that assessee filed the return of income on 31.10.2017 reporting total income at Rs.33,61,164/-. Assessee did not comply with the notices issued u/s.142(1) which led to completion of assessment u/s.144 by making a disallowance of Rs.41,76,081/- claimed by the assessee u/s.57 of the Act. Aggrieved, assessee went in appeal before the Id. CIT(A). At the first appellate stage also, Id. CIT(A) has issued five notices for hearing. However, assessee did not comply with the same. In absence of any details and clarifications, Id. CIT(A) upheld the disallowance made by the Id. Assessing Officer. Aggrieved, assessee is in appeal before the Tribunal.

5. Before us, ld. Counsel for the assessee prayed for restoration of the matter back to the file of ld. CIT(A) and assured to comply with the notices for expeditious disposal of the appeal by the ld. CIT(A).

6. Per contra, ld. Sr. DR submitted that assessee is not serious about complying with the proceedings at various stages.

7. We have heard the rival contentions and perused the material on record. Despite the objection raised by the Ld. Sr. DR, in the interest of justice and fair play, we find it appropriate to accept the submissions made by the Ld. Counsel for the assessee to restore the matter back to the file of ld. CIT(A) for *denovo* meritorious adjudication of the grounds of appeal taken by the assessee at the first appellate stage. Assessee is at liberty to furnish details and documents, if he so requires, to substantiate his claim.

8. While remitting the matter back to the file of ld. CIT(A), we note that there are lapses on the part of assessee of not attending any of the hearings, for which ample opportunities were given. We thus, direct the assessee to be diligent in attending the hearings before the Ld. CIT(A) for expeditious disposal of the matter and not to seek adjournments unless warranted by compelling reasons.

9. Since the matter is restored to the file of Ld. CIT(A) for meritorious adjudication by passing a speaking order in terms of our observations made hereinabove, we are not expressing any views on the merits of the case so as to limit the assessment procedure before the Ld. CIT(A). The observations herein made by us in remanding the matter back to the file of Ld. CIT(A) will not impair or injure the case of the Revenue nor will it cause any prejudice to the defense/explanation of the assessee.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 11 July, 2024

Sd/-
(Satbeer Singh Godara)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 11 July, 2024

MP, Sr.P.S.

Copy to :

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai