

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER**

**ITA No.3510/DEL/2023  
(Assessment Year: 2012-13)**

Progressive Alloys (India) Pvt. Ltd.,  
307, Express Tower, N.S. Mandi,  
North West Delhi,  
Delhi – 110 033.

vs. ITO, Ward 20 (1),  
Delhi.

**(PAN : AAGCP1584M)**

**(APPELLANT)**

**(RESPONDENT)**

ASSESSEE BY : Shri Deepanshu Singla, Advocate  
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 08.07.2024  
Date of Order : 12.07.2024

**ORDER**

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 30.07.2023 for the assessment year 2012-13.

2. Grounds of appeal taken by the assessee read as under :-

“1. That under the facts and circumstances of the case, the impugned order dated 02.08.2023 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), generated vide DIN: ITBAINFAC/S/250/2023-24/054820030(1), dismissing the grounds of appeal and determining the total income at Rs.8,53,03,474/- in place of returned income as returned by the assessee is bad in law on account of several grounds and assessee/appellant denies its liability to be assessed for any income other than the income already returned by the assessee and the consequential demand of Rs.4,61,05,193/-.

2. That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order as the Ld. CIT(A), has dismissed the grounds of the appeal on account of absence of appellant despite several opportunities provided to the latter, but it is imperative to note that the absence of the appellant was not deliberate or intentional but due to the unavailability of the appellant during the course of appeal proceedings.

3. That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order as the Ld. CIT(A) have failed to appreciate the fact that during the period of appeal proceedings the appellant could not reply to the notices issued by the CIT(A) due to the reasons beyond his control and also due to the health issues being faced by the director of the assessee company.

4. That under the facts and circumstances of the case the Ld. CIT(A) has erred in law as much as in fact while passing the impugned order, as the Ld. CIT(A) has upheld the addition made by the Ld. AO in the assessment order dt. 27.12.2019 passed without following the due provisions of law and without having proper jurisdiction.

5. That under the facts and circumstances of the case the Ld. AO has erred in law as much as in fact while passing the impugned order, as the Ld. AO have made addition on account of cash credits into the bank account, whereas the Ld. AO have failed to appreciate the fact that the cash deposited by the assessee was the cash available in hand with the assessee.

6. That under the facts and circumstances of the case the Ld. AO has erred in law as much as in fact while passing the impugned assessment order, as the Ld. AO' have made addition on account of unverified sundry creditors, whereas the Ld. AO have failed to appreciate the fact that during the A Y under consideration the assessee has done more business as compared to previous A Y and thus has made more purchases. The Ld. AO have made this addition only based on conjectures, surmises and presumptions.”

3. Brief facts of the case are that the assessee filed its return of income on 03.09.2012 declaring income of Rs.1,64,704/- for the AY 2012-13. Subsequently, the case was reopened u/s 147 of the Income-tax Act, 1961 (for short 'the Act') by issuing notice u/s 148 of the Act on 31.03.2019 as per information available with AO. The AO vide order u/s 143 r.w.s. 147 of the Act dated 27.12.2019 made the addition of Rs.20,79,350/- on account of commission @ 2.5% of bogus accommodation entries of Rs.8,31,73,987/-.

4. Against the above order, assessee appealed before the ld. CIT (A). Ld. CIT (A) noted that several notices were sent for compliance but there was no compliance by the assessee, hence ld. CIT (A) deemed it appropriate to dismiss the appeal for non-prosecution.

5. Against this order, assessee is in appeal before the ITAT. I have heard both the parties and perused the records.

6. At the outset, I note that there was a delay of 67 days in filing the appeal. The delay is attributable to the previous counsel who was looking after the case. Upon careful consideration and hearing both the parties, I condone the delay in filing the appeal.

7. On the merits of the case, ld. Counsel for the assessee prayed that assessee was not properly presented before the ld. CIT (A) by the previous counsel. He prayed that opportunity may be granted to the assessee to canvass the case properly before the ld. CIT (A).

8. Per contra, ld. DR for the Revenue did not have any serious objection to the aforesaid proposition.

9. Upon careful consideration and in the interest of justice, I remit the issue to the file of ld. CIT (A). Ld. CIT (A) shall consider the issue afresh and decide as per law after giving the assessee proper opportunity of being heard. Assessee is also directed to cooperate with the proceedings.

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

**Order pronounced in the open court on this 12<sup>th</sup> day of July, 2024.**

**Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 12<sup>th</sup> day of July, 2024  
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**