

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.298/Nag./2023
(Assessment Year : 2018-19)

Triveni Wires Pvt. Ltd.
E-20, MIDC, Hingna Road
Industrial Area, Hingna,
Nagpur 440 028 PAN-AAACT6638G

..... Appellant

v/s

Addl. Commissioner of Income Tax
National Faceless Appeal Centre, Delhi

..... Respondent

Assessee by : Alfiya Rozie
Revenue by : Shri Rajiv Benjwala

Date of Hearing - 11/07/2024

Date of Order - 11/07/2024

ORDER

PER V. DURGA RAO, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 28/06/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2018-19.

2. In its appeal, the assessee has raised following grounds:-

“1. The Ld. CIT(A) erred in confirming the penalty U.s. 272A(1)(d) of Rs. 50,000/- so levied by the AO-That on the facts and decision of Hon'ble Apex Court, the levy of penalty of Rs. 50,000/- u/s 272A(1)(d) for non compliances of notices issued during assessment proceedings so initiated during Covid-19 Pandemics is unjustifiable, untenable as per law and also against the principle of natural justice.

2. The Ld. CIT(A) erred in not providing proper opportunity of being heard to the Appellant during the appellate proceeding -- The Appellant claims that during the entire appellate proceedings, the Ld.CIT(A) was provided mere 2 opportunity of only 7 days for submitting detailed written submission and that is in the end of the June month which is unjustified and against the principle of natural justice.

3. The Appellant craves to add, delete, insert, omits any ground or part of the grounds of appeal at the time of hearing of the appeal."

3. The brief facts of the case are, the assessee is a Company, filed its return of income electronically on 26/10/2018, disclosing nil income. The Assessing Officer processed the case of assessee under section 143(1) of the Income Tax Act, 1961 ("*the Act*") after accepting the return of income. The case was then selected under CASS. Notice dated 28/09/2019, was issued under section 143(2) of the Act through "*on-line*" to the assessee directing it to file details in support of the income shown in the return of income filed. However, such notice remained un-complied by the assessee. The Assessing Officer stated in his order that despite issuance of 5 notices to the assessee, however, none of the notices was responded by the assessee. Since the assessee did not respond to the notices issued by the Assessing Officer, therefore, the Assessing Officer imposed penalty under section 272A(1)(d) of the Act of ₹ 50,000. Aggrieved, the assessee carried the matter in appeal before the first appellate authority.

4. Before the learned CIT(A) also, the assessee did not appear which resulted in passing ex-parte order. The determination and decision of the learned CIT(A) are reproduced below:–

"7. Held: During the course of appeal proceedings, no reply has been filed by the appellant. I have perused the order of the Assessing Officer and considered the facts of the case. The appellant has not pursued the appeal despite being granted several opportunities as elaborated above. No details,

documents or submission have been provided by the appellant substantiating its grounds of appeal. The mere facts mentioned in Form No. 35 cannot be considered in the absence of any supporting documentary evidence and submissions. The AO has passed a reasoned and speaking order considering all the facts and the circumstances of the case and no interference with the order of the AO is called for. All the grounds of appeal are therefore dismissed."

The assessee being aggrieved is before the Tribunal.

5. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the learned CIT(A) gave opportunities to the assessee, ultimately, the order passed by him is an ex-parte order. Therefore, we are of the opinion that by following the principles of natural justice, the assessee deserves one opportunity to substantiate his case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter denovo after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason and also adhere to the notices which are to be issued by the learned CIT(A) promptly. Consequently, all the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 11/07/2024

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 11/07/2024

Copy of the order forwarded to:

- (1) The Assessee;*
- (2) The Revenue;*
- (3) The PCIT / CIT (Judicial);*
- (4) The DR, ITAT, Nagpur; and*
- (5) Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur