

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 2506/MUM/2024
(Assessment Year : 2012-13)**

Maharashtra Small Scale Industries Development Corporation Limited 9, Krupanidhi Walchand Hirachand Marg, Ballard Estate, Mumbai-400001.	Vs.	ACIT Circle 2(2)(1) Aayakar Bhavan, Room No. 545, 5 th Floor, M.K. Road, Mumbai-400020.
PAN/GIR No. AAACM3836A		
(Appellant)	..	(Respondent)

Assessee by	Ms. Dinkle Hariya a/w Sruti Kalyanikar
Revenue by	Shri. Manish Sareen (CIT DR)
Date of Hearing	31/07/2024
Date of Pronouncement	31/07/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 12.04.2024 passed in Appeal no. CIT(A) 5, Mumbai/10039/2018-19 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2012-13, wherein learned CIT(A) has dismissed assessee's first appeal in default of assessee.

2. Briefly stating the facts, that assessee filed return of income on 27.09.2012 declaring income at Rs. 9,09,21,760/- for A.Y. 2012-13. He submitted revised computation of income at Rs. 22,62,52,420/- but without calculating the interest u/s. 234C of the Act. Assessee did not respond to the notice issued u/s. 154 of the Act. The assessing officer rectified the same and raised demand of Rs. 46,62,392/-. Aggrieved by the rectification order, assessee filed an appeal before learned CIT(A), who dismissed assessee's appeal in absentia.
3. Assessee has filed this appeal on the ground that learned CIT(A) has passed ex-parte impugned order in violation of principles of natural justice without affording sufficient opportunity of hearing to the appellant assessee and erred in confirming the above said addition ignoring the fact that the TDS of Rs. 17,97,820/- was duly reflected in form 26 AS.
4. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
5. We have perused the records and heard learned representatives for both the parties.
6. Learned AR has submitted that learned CIT(A) has erred in passing ex-parte impugned order. Prayed to set aside impugned order.
7. Learned DR has submitted that the assessee was provided sufficient opportunity of hearing by issuance of notices on four occasions by learned CIT(A) but for no avail. Learned DR has

supported impugned order passed by the first appellate authority.

8. Perusal of the impugned order shows that learned CIT(A) has mentioned in para 3 of the impugned order that the appellant assessee did not comply notices issued on four occasions. He has further mentioned that the appellant was not interested to pursue the appeal. Learned CIT(A), thus, dismissed assessee's first appeal in default.
9. We notice that learned CIT(A) was expected to state the points for determination, the decision there on and the reasons for the decision as provided u/s. 250(6) of the Act. We are conscious of the fact, that assessee has not turned up before the first appellate authority in response to the notices issued on four different occasions. However, in the interest of justice and fair play, we deem it appropriate to remit the matter back to the file of learned CIT(A) for denovo adjudication on merit. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation on the merits of the case. The appeal is thus liable to be allowed.

10. In the result, the appeal is allowed. Impugned order dated 12.04.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced in open court today i.e on 31.07.2024.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai; Dated 31/07/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai