

**IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI**  
**BEFORE SHRI B R BASKARAN, AM AND MS. KAVITHA RAJAGOPAL, JM**

ITA No.4331/Mum/2023  
(Assessment Year: 2017-18)

Holachef Hospitality Private Limited C/o. M/s. G. P. Agrawal & Co., 252A, 2 <sup>nd</sup> Floor, Vijay Tower, Shahpur Jat, Delhi-110 049	Vs.	ACIT, Circle 10(1)(1) Room No. 209, 2 <sup>nd</sup> Floor, Aayakar Bhavan, M K Road, Mumbai-400 020
PAN/GIR No. AADCH 3662 D		
<b>(Assessee)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	None
<b>Respondent by</b>	:	Shri Biswamath Das
<b>Date of Hearing</b>	:	08.05.2024
<b>Date of Pronouncement</b>	:	31.07.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘Id.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2017-18.

2. It is observed that the appeal is time barred by 257 days for which the assessee has filed an Affidavit for condoning the said delay. On perusal of the same and on hearing the learned Departmental Representative (ld. DR for short) for the Revenue, we deem it fit to condone the said delay for the reason that the assessee had ‘sufficient cause’ in not filing the appeal within the period of limitation. Delay condoned.

3. The assessee has challenged this appeal on the following grounds:

1. *The assessment u/s. 144 of the Income Tax Act was made as our authorized representative failed to appear without our knowledge.*
2. *The company filed its return showing loss of Rs.25,51,10,469/- but the assessing officer failed to appreciate it & computed estimated income of Rs.90,78,425/- which is 5% of total turnover of Rs.18,15,68,500/-.*
3. *The Assessing Officer was wrong in not adjusting carry forward loss of Rs.26,67,42,650/-.*
4. *The assessment proceeding could not be attended as first notice u/s. 143(2) was 10.08.2018 whereas the assessed company was sold to another company in May 2018 & was under the wrong notion that new owner will look after the affairs of the company.*
5. *After sale of business in May, 2018 we had to vacate our office and all the staff had been laid off.*
6. *The non representation is attributable to our authorized CA firm whose maid id is registered in ourcase, who neither did appear nor informed us.*
7. *Before CIT(A) also the case was not represented by our CA, and we were not communicated about proceeding.*

4. The brief facts are that the assessee company Holachef Hospitality Private was formed on 26.02.2014 to carry out the business of cloud kitchen under the brand name of 'Holachef'. Since it was a startup company, it was funded by various venture capitalists such as Kalaari Capital Partner III LLC, India Quotient 2 SVEL, etc. The assessee had filed its return of income on 13.10.2017 showing 'current year loss' at Rs.25,51,10,469/- and deemed total income u/s. 115JB of the Act at Rs.(-)265795763/-. The assessee's case was selected for scrutiny under CASS and notice u/s. 143(2) and 142(1) were issued and served upon the assessee.

5. The Id. Assessing Officer ('A.O.' for short) observed that the assessee had showed turnover of Rs.18,15,68,500/- and other income of Rs.81,95,930/-. The Id. A.O. passed the assessment order u/s. 144 of the Act on 20.12.2019, determining the total income at Rs.90,78,425/-.

6. The assessee was in appeal before the first appellate authority, challenging the order of the Id. A.O.

7. The Id. CIT(A) vide an *ex parte* order upheld the order of the Id. A.O. on the ground that the assessee has failed to furnish any explanation or supporting documents to substantiate its claim.

8. The assessee is in appeal before us, challenging the order of the Id. CIT(A).

9. We have heard the Id. DR and perused the material available on record. It is observed that the assessee has been non compliant throughout the proceeding before the first appellate authority and had failed to furnish any explanation along with any supporting documentary evidence in support of its claim. The Id. CIT(A) has also not decided the issue on the merits of the case for the above mentioned reason. In view of the same, we are of the considered opinion that the assessee shall be given one more opportunity to present its case before the first appellate authority in view of the principles of natural justice with the direction that the assessee should cooperate with the proceeding before the Id. CIT(A) without any undue delay.

10. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 31.7.2024.*

Sd/-

(B R Baskaran)  
Accountant Member

Sd/-

(Kavitha Rajagopal)  
Judicial Member

Mumbai; Dated : 31.07.2024

Roshani, Sr. PS

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai