

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

**BEFORE SHRI S RIFAUR RAHMAN ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 3610/Del/2023
(Assessment Year- 2018-19)**

Fangle Fannel Flexible Foam Private Limited, 6AIndustrial Area, Tilak Nagar, New Delhi.-110018.	VS.	Income Tax Officer, Ward 9(1), Delhi.
PAN No: AAACF6077F		
APPELLANT		RESPONDENT

Assessee by : Shri Divyansh Jain, Adv.
Revenue by : Shri Om Parkash, Sr. DR

Date of Hearing : 15.05.2024
Date of Pronouncement : 30.07.2024

ORDER

PER SUDHIR PAREEK, JM

This appeal by Assessee is directed against the order of National Faceless Appeal Centre , Delhi [for short hereinafter referred to as the “(NFAC)”]/ CIT(A) dated 14.11.2023 for Assessment Year 2018-19 on the following grounds of appeal: -

“1. That on the facts and in the circumstances of the case, the Ld.CIT(A) erred in not adjudicating and dismissing the appeal for non-prosecution which is gross violation of principle of natural justice.

2. That on the facts and circumstances of the case, Ld. CIT(A) erred in law in confirming addition of Rs 7,19,519/- made by estimating net profit rate of 8% by the Ld. AO on his own assumption and presumption that the appellant has not maintained the books of accounts nor get its books of accounts audited without appreciating the fact that the appellant is a Private Limited company and has duly maintained and got the books of accounts statutorily audited as per the provisions of the Companies Act, 2013.

3. That on the facts and circumstances of the case, Ld. CIT(A) erred in law in confirming addition of Rs 7,19,519/- made by the AO by estimating net profit at the rate of 8% without rejecting books of account maintained by the appellant before estimating the profit @ 8% and also without bringing any cogent material on record in respect of his estimation of such profit.

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

2. Brief facts of the case may be summarized as that the assessee e-filed return of income for the A.Y. 2018-19 on 23.09.2018 at the income of Rs. 10,410/-. The case was selected for scrutiny through approval with reasons for survey under section 133A.

3. Heard rival submissions and carefully scanned the material available before us.

4. At the outset, the Ld. CIT(A) dismissed the assessee's appeal by stated that the during this appeal proceedings various notices were issued fixing hearing on 03.10.2023, 12.10.2023, 26.10.2023 and 03.11.2023, but the appellant has not been complied to any of the notices and also not been submitted any details/ document/ evidences in support of his ground of appeals.

5. However, the Ld. Counsel for the assessee stated that the appeal has been dismissed by Ld. CIT(A) by ignoring the assessee's request for granting further time to make submissions and filling evidences, which were being collected and complied and thus denying natural justice and the appeal has been dismissed without giving fair & meaningful opportunity to the assessee of being heard. Also the Ld. AO stated that the assessee was provided proper opportunities for furnishing relevant details in support of income shown in the return but all went in vain.

6. Per contra, Learned Departmental Representative (hereinafter referred to as 'Ld. DR') relied on the order passed by both lower authorities and stated sufficient opportunity provided to assessee before passing impugned orders.

7. We have carefully considered the orders passed by lower authorities. We find that the appeal had been dismissed due to the assessee's failure to appear or provide documentary evidence.

8. By hearing both side and perusing material placed before us, we are of the humble opinion that justice should not only be done but it appears to be done and in order to achieve the noble goal of justice and before reaching any conclusion it is expedient to consider, all the material/ documents in existence and produced and whatever it is, if one more opportunity provided to assessee /appellant, object of justice will be served to some extent. Thus, for this purpose, we are inclined to remit back the matter to Ld. AO with the direction to decide afresh.

9. Consequently, matter is remitting back to the Ld. AO with the direction to decide the matter afresh by verifying the all relevant materials after affording more effective, meaningful and sufficient opportunity of being heard to the assessee. At the same time, assessee / appellant shall co-operate in proceedings and will not seek unnecessary adjournments for ensuring expeditious disposal of the matter. Assessee / appellant is at liberty to file / submit any documents / evidence etc. in support of his claim.

10. In the result, this appeal is allowed as indicated above for statistical purpose.

Order pronounced in the Open Court on 30.07.2024

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 30/07/2024.
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	22.07.24
Date on which the typed draft is placed before the dictating Member	22.07.24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	