

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.1702/M/2024
Assessment Year: 2010-11**

M/s. Alpha Chemie Trade Agencies Pvt. Ltd., Block H, Shri Sadashi CHS Ltd., 6 th Road, Santacruz East, Mumbai – 400 055 PAN: AADCA9890L	Vs.	The Commissioner of Income Tax (Appeals)-22, R.No.513, 5 th Floor, Earnest House, Nariman Point, Mumbai – 400 021
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Dhaval Shah, A.R. &
Ms. Jigna Jain, A.R.

Revenue by : Shri Manoj Kumar Sinha, Sr. DR.

Date of Hearing : 26 . 06 . 2024

Date of Pronouncement : 31 . 07 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 08.02.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2010-11.

2. At the outset we observe that in the instant case the Assessing Officer (AO) determined the income of the Assessee to the tune of Rs.4,44,467/- as against the returned income of (-)Rs.5,577/- by not allowing the business expenses of Rs.8,41,348/- against the income

estimated and therefore the Assessee by filing first appeal before the Ld. Commissioner challenged the disallowance of expenses, however, as it appears from the impugned order the Assessee not responded to the various notices sent by the Ld. Commissioner and therefore in the constrained circumstances having left no option dismissed the appeal of the Assessee. We observe that though the Ld. Commissioner has written in the impugned order that multiple opportunities of being heard by way of issuing of hearing notices were given to the Assessee, however, from the order it nowhere appears by which mode and on which dates the notices were sent to the Assessee. Even otherwise we observe that the Ld. Commissioner did not pass the order on merits, hence for the just decision of the case and for the ends of substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh on merits, suffice to say by affording reasonable opportunity to the assessee to substantiate its claim before the Ld. Commissioner.

3. We also direct the assessee to cooperate with the appellate proceedings and to file the relevant submissions/documents which would be essential and required by the Ld. Commissioner for proper adjudication of the case. We clarify that in case of further default the assessee shall not be entitled for any leniency. Hence, the case is remanded accordingly.

4. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 31.07.2024.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.