



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.176/CTK/2024
Assessment Year : 2015-16

Hi-tech Estates and Promoters Pvt Ltd., Plot No.A/103, Saheed Nagar, Bhubaneswar.	Vs.	DCIT, Circle-1(2) Bhubaneswar
PAN/GIR No.AAACH 9591 G		
(Appellant)	..	(Respondent)

Assessee by : Shri Abhishek Ojha, CA
Revenue by : Shri Sanjay Kumar, CIT DR

Date of Hearing : 01/08/2024
Date of Pronouncement : 01/08/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 19.2.2024 against the confirmation of levy of penalty of Rs.1,15,15,340/- u/s.221(1) r.w.s 140A(3) of the Income Tax Act, 1961 in Appeal No.CIT(A), Bhubaneswar-1/10075/2018-19 for the assessment year 2015-16.

2. Shri Abhishek Ojha, Id AR appeared for the assessee and Shri Sanjay Kumar, Id CIT DR appeared for the revenue.

3. It was submitted by Id AR that the impugned assessment year is 2015-16 and the tax liability for the impugned assessment year was Rs.1,15,17,758/-. It was the submission that the assessee had paid Rs.20,00,000/- out of the said liability, admittedly within six months from the end of the year levying penalty u/s.221(1) r.w.s 140A(3) of the Act. Ld AR drew our attention to page 14 of the paper book, which were the details of the tax paid as under:

Details of tax paid

Sl.No.	Amount	Challan No.	BSR code	Dt. Of deposit
1.	13,00,000	50194	0271852	2.10.2021
2.	15,00,000	50187	0271852	2.10.2021
3.	10,00,000	52788	0271852	6.10.2021
4.	10,00,000	52724	0271852	6.10.2021
5.	12,00,000	50373	0271852	18.10.2021
6.	12,00,000	50383	0271852	18.10.2021
7.	8,15,340	50387	0271852	18.10.2021
8.	15,00,000	51816	0271852	30.9.2016
9.	10,00,000	10465	0510075	29.2.2016
10.	5,00,000	10487	0510075	25.2.2016
11.	5,00,000	23719	0261632	20.2.2016
Total:	1,15,15,340			

4. It was the submission that the Directors of the assessee company had been arrested by the Economic Offence Wing (EOW) on account of certain complaints by the customers of the assessee. The arrest took place on 25.12.2012. It was the submission that the matter is still pending. The Directors of the assessee company got bail on the orders of the Hon'ble Supreme Court on 27.1.2014 after providing a bail bond of Rs.63 crores,

which was also to be honoured by the payment of amount by the assessee to the Hon'ble Supreme Court. It was the submission that this amount was against the claim of the customers of the assessee company. It was the submission that the assessee company and its Director have gone through very hard times and it was on this account, payment of self assessment tax could not be made within the stipulated time. It was the prayer that the penalty levied u/s.221(1) r.w.s. 140A(3) of the Act may be deleted.

5. In reply, Id CIT DR vehemently supported the penalty order and the order of the Id CIT(A). It was the submission that though it is true that the assessee has paid the tax liability, still the deterrent must be put into place so that this type of case should not be done in future and the assessee should be made an example for others.

6. We have considered the rival submissions. The facts in the present case clearly shows that right from the assessment year 2012-13, the assessee has been in acute difficulty insofar as its Directors are in jail having been compelled to raise huge amount for the return/refund of the customers claim and it is also noticed that the assessee has also paid up the entire tax liability of Rs.1,15,15,340/- including interest levied u/s.234A, 234B and 234C, which has been paid during the pendency of the appeal before the Id CIT(A). A perusal of the chart of the payment of the tax liability also shows that the assessee has been following up and attempted to close his tax liability. The action of the assessee, in fact, support his

claim of being due diligent. This being so, as it is noticed that the assessee has completely paid the tax liability and as the assessee has shown valid reasons for its inability to pay tax liability within the stipulated time, we accept the reasonable cause as stated by the assessee and cancel the penalty levied u/s.221(1) r.w.s. 140A(3) of the Act as levied by the AO and confirmed by the Id CIT(A).

7. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 01/08/2024.

Sd/-

(Manish Agarwal)

ACCOUNTANT MEMBER

Cuttack; Dated 01/08/2024

B.K.Parida, SPS (OS)

sd/-

(George Mathan)

JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant : Hi-tech Estates and Promoters Pvt Ltd., Plot No.A/103, Saheed Nagar, Bhubaneswar
 2. The Respondent: DCIT, Circle-1(2) Bhubaneswar
 3. The CIT(A)- NFAC, Delhi
 4. Pr.CIT-1, Bhubaneswar
 5. DR, ITAT,
 6. Guard file.
- //True Copy//

By order

Sr.Pvt.secretary
ITAT, CUTTACK