

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "J (SMC)", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

ITA NO. 2624/MUM/2024 : A.Y : 2018-19

Sterling Generators Pvt. Ltd.,
M/s. Kalyaniwalla & Mistry LLP,
Esplanade House, 2nd Floor,
29, Hazarimal Somani Marg, Fort,
Mumbai 400 001.
PAN : AACCS2107H (Appellant)

Vs. Asst. Commissioner of
Income Tax, Range 1(3)(1),
Mumbai. (Respondent)

Appellant by : Ms. Sonalee Godbole
Respondent by : Shri Pravin M Chavan

Date of Hearing : 30/07/2024
Date of Pronouncement : 30/07/2024

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER :

The assessee has filed this appeal challenging the order dated 11.03.2024 passed by learned Addl./Joint Commissioner of Income Tax (A)-1, Hyderabad ('CIT(A)' for short) and it relates to Asst. Year 2018-19.

2. The learned AR submitted that the assessee received intimation under Section 143(1) of the Income Tax Act, 1961 ('Act' for short) on 13.03.2020 wherein certain adjustments had been made. Accordingly, the

assessee filed an appeal challenging the adjustments made under Section 143(1) of the Act. Subsequently, regular assessment order came to be passed by the Assessing Officer on 25.03.2021 under Section 143(3) of the Act. The assessee filed an appeal challenging the additions made in the regular assessment order.

3. When both the appeals were pending before the learned CIT(A), a rectification order came to be passed by the Assessing Officer on 11.01.2022 under Section 154 of the Act. In view of the same, the grievance of the assessee against the adjustments made under Section 143(1) of the Act was removed. Accordingly, the assessee filed a letter before the learned CIT(A) requesting him to permit the assessee to withdraw the appeal filed against the intimation issued under Section 143(1) of the Act. In pursuance of the above said letter, the learned CIT(A) has passed the impugned order, however, instead of dismissing the appeal filed against the intimation passed under Section 143(1) of the Act, the learned CIT(A) has stated that the assessee has withdrawn the appeal filed against the regular assessment order under Section 143(3) of the Act and accordingly dismissed the same, which is factually incorrect.

4. We heard the learned DR and perused the record. Having regard to the submissions made by the learned AR, we noticed that there was confusion in the mind of the learned CIT(A) and accordingly, dismissed the wrong appeal. In this factual matrix, we set-aside the impugned order passed by the learned CIT(A) and restore the same to his file for passing appropriate order dismissing the appeal filed by the assessee against the intimation under Section 143(1) of the Act.

5. In the result, the appeal filed by the assessee is treated as allowed.

Order pronounced in the open court on 30th July, 2024.

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai, Date : 30th July, 2024

SSL

Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "J (SMC)" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai