

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.276/Ind/2024
(Assessment Year: 2013-14)

M.P. Agrotonics Limited D-13, Satlapur Growth Centre, New Industrial Area, Phase-II Mandideep Raisen	Vs.	ACIT, Central-1 Indore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AADCM7417P		
Assessee by	Shri Harsh Vijaywargiya, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	08.08.2024	
Date of Pronouncement	09 .08.2024	

O R D E R

Per Vijay Pal Rao, JM :

This appeal by assessee is directed against the order dated 14.02.2024 of the Commissioner of Income Tax (Appeal) National Faceless Appeal Centre (NFAC) Delhi, for A.Y.2013-14. The assessee has raised following grounds of appeal:

“1. That Ld. CIT (A) has passed the impugned order in an ex-parte manner without affording reasonable opportunity of being heard and without observing the principle of natural justice.

2. That having regard to the facts and circumstances of the case, Ld. AO has erred in law and on facts in framing the reassessment order and that too without assuming jurisdiction as per law and without complying with mandatory conditions u/s 147 to 151 as envisaged under the Income Tax Act, 1961.

3. That having regard to the facts and circumstances of the case, Ld. AO has erred in law and on facts in making addition of Rs.37,15,870/- by treating it as unexplained credits u/s 68 of assessee by recording incorrect facts and findings and without considering the submission of the assessee and that too without providing the entire adverse material on record and without considering the request for cross examination of concerned persons and without observing the principle of natural justice.

4. That in any case and in any view of the matter, action of Ld. AO in making and CIT (A) in confirming addition of Rs. 37,15,870/- by treating it as unexplained credits u/s 68 of assessee, is bad in law and against the facts and circumstances of the case.

5. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

2. Ld. AR of the assessee has submitted that the CIT(A) has passed the impugned order ex-parte whereby the appeal of the assessee was dismissed. He has pointed out that the assessee filed adjournment application seeking more time to produce the supporting evidences as well as the submissions however, the CIT(A) declined to adjourn the hearing and dismissed the appeal for non-prosecution. The Ld. AR has filed a copy of the application whereby the assessee requested the AO to provide inspection as well as certified copy of the record but same was not provided to the assessee and

consequently the assessee sought more time to file the supporting evidences and submissions before the CIT(A). Thus, ld. AR has submitted that the impugned order of the CIT(A) may be set aside and the matter may be remanded to the record of the CIT(A) for fresh adjudication of the appeal after giving an opportunity of hearing to the assessee.

3. On the other hand, Ld. DR has raised no objection if the matter is remanded to the record of the CIT(A) for fresh adjudication on merits.

4. We have considered the rival submissions as well as relevant material on record. The CIT(A) has given the details of the notices issued and adjournment sought by the assessee in para 4.1 as under:-

“4.1 Notice was issued on 18.07.2023 fixing the appeal for hearing on 28.07.2023. Next notice was issued on 06.12.2023 and the case was re-fixed for hearing on 14.12.2023, again notice was issued on 08.01.2024 and the case was re-fixed for hearing on 15.01.2024. In response to this, the appellant sought adjournment, therefore, again a notice was issued on 29.01.2024 fixed for hearing on 05.02.2024 The appellant again sought adjournment.

However, no submissions were made during the entire appellate proceedings except seeking adjournments without

citing any specific and compelling circumstances without adducing any documents/evidence.

The non-compliance by the appellant to statutory notices clearly show that reasonable, speaking and fullest natural justice has been followed during appellate proceedings but it is the appellant who has not availed any chances for the reasons best known to them. Therefore, the bar of natural justice has been breached by the appellant for the reasons known to them.”

4.1 Thereafter the appeal of the assessee was dismissed for non-prosecution while passing impugned order. There is no dispute that the assessee sought adjournment which was declined by the CIT(A). The Ld. AR of the assessee has filed a copy of letter dated 23.01.2024 filed before the AO for inspection of assessment record and providing certifies copies of the relevant material. In the said application the assessee has specifically mentioned that the material having bearing on the assessment of the assessee has been transferred to the assessee's jurisdictional AO and therefore, the assessee requested the AO to kindly allow the inspection of the assessee's record and provide legible certifies copies of the documents details of which were also given in the said application. Ld. AR has pointed out that since the said record was not provided to the assessee and assessee was awaiting for the inspection and certified copy therefore, the assessee was not in a position to produce supporting evidences as well as submissions before the CIT(A). Therefore, in the facts and circumstances of the case as

discussed above, we are satisfied that the assessee was having sufficient reason for seeking adjournment of the hearing which was declined by the CIT(A). Accordingly the impugned order of the CIT(A) dismissing the appeal of the assessee for non-prosecution is set aside and the matter is remanded to the record of the CIT(A) for fresh adjudication on merits after given an appropriate opportunity of hearing to the assessee.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 09.08.2024.

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, 09.08.2024

Patel/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*