

IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI

**BEFORE MS. KAVITHA RAJAGOPAL, JM AND
SHRI GIRISH AGRAWAL, AM**

ITA No.710/Mum/2024
(Assessment Year: 2017-18)

Western Cans Private Limited D 401, 4 th Floor, Remi Bizcourt Off Shah Industrial Estate Veera Desai Road, Andheri (W), Mumbai-400 053	Vs.	DCIT, Circle-11(3)(2) Mumbai
PAN/GIR No. AAACW 0563 D		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Jitendra Singh
Respondent by	:	Shri Rajesh Meshram
Date of Hearing	:	12.08.2024
Date of Pronouncement	:	14.08.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) ('ld.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2017-18.

2. The assessee has raised the following ground of appeal:

On the facts and in the circumstances of the case the Learned Commissioner of Income Tax (Appeals) (LIT) has erred in upholding the content of the Learned Assessing Officer ('A.O.') in disallowing purchases of the Appellant at 25% of Rs.3,36,55,836/- is Rs.84,00,000/- on an adhoc basis and without issuing show cause notice for proposed additions of Rs.84,00,000/- for due to the mere fact that the supplier Zarhak Steels Private Limited to whom notice u/s. 133 (6) of the Income Tax Act was issued had did not submit their response in time.

3. The brief facts of the case are that the assessee company had filed its return of income on 12.10.2017, declaring current year loss of Rs.8,58,122/-. The assessee's case

was then selected for scrutiny under CASS and notices u/s. 143(2) and 142(1) were issued and duly served upon the assessee.

4. The ld. Assessing Officer ('A.O.' for short) passed the assessment order u/s. 143(3) of the Act on 08.12.2019, thereby determining the total income at Rs.75,41,878/-, by making additions/disallowance of Rs.84 lacs as bogus purchases.

5. Aggrieved, the assessee was in appeal before the first appellate authority, challenging the assessment order.

6. The ld. CIT(A) vide order dated 12.12.2023, upheld the order of the ld.A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate its claim and has been non compliant throughout the appellate proceedings.

7. The assessee is in appeal before us, challenging the impugned order of the ld. CIT(A).

8. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the addition made by the ld. A.O. before the first appellate authority but has been non compliant and has not filed any documentary evidences in support of its claim.

9. The learned Authorised Representative ('ld. AR' for short) for the assessee contended that the assessee may be given one more opportunity to present its case before the ld. CIT(A) and had undertaken to file all the relevant documentary evidences before the ld. CIT(A) to substantiate the assessee's claim.

10. The learned Departmental Representative ('ld.DR' for short) vehemently opposed to setting aside the issue to the file of the ld. CIT(A) for the reason that the assessee was given several opportunity by the ld. CIT(A) which was not availed by the assessee.

11. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present its case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand this issue back to the file of the ld. CIT(A) for *de novo* adjudication. The assessee is directed to comply with the proceedings without any undue delay.

12. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 14.08.2024

Sd/-

(Girish Agrawal)
Accountant Member

Mumbai; Dated : 14.08.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai