

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.1204/Bang/2024
Assessment year : 2018-19

Shri Bagodi Venkobanna, Near Kalmatha, M.G. Road, Gangavathi – 583 227. PAN : AOEPV 1887N	Vs.	The Income Tax Officer, Ward 1, Koppal.
APPELLANT		RESPONDENT

Appellant by	:	Shri Veeranna M. Murgod, CA
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel

Date of hearing	:	22.07.2024
Date of Pronouncement	:	22.08.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the ex parte order dated 05.04.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2018-19 for non-prosecution by the assessee.

2. Briefly stated the facts of the case are that the assessee is a dealer of milk and milk products. The case was reopened after issue notice u/s. 147/148 after recording reasons. It was noticed that the assessee had maintained bank account in Bank of Baroda, Gangavathi relevant to AY 2018-19 and there is transaction amount of Rs.1,35,68,567 which were not recorded in the books of account of assessee. Even during the course of assessment proceedings u/s. 143(3), the assessee was issued notice u/s. 142(1) also. But the assessee was unable to substantiate its case even after granting ample opportunities to the assessee. Accordingly the AO applied 8% net profit on the amount of Rs.1,35,68,567 which was calculated at Rs.10,85,485. Further the AO noted that the assessee has claimed deduction under Chapter VIA of Rs.7,750 and it was also not allowed for want of evidence. Accordingly the AO assessed income at Rs.17,81,580. Aggrieved from the above order the assessee filed appeal before the First Appellate Authority (FAA).

3. The Id. FAA issued various notices on different dates for substantiating its claim as made in the grounds of appeal. However, even though sufficient opportunities were granted, the assessee did not take any advantage of the notices issued by Id. FAA, therefore the Id. FAA was bound to decide the issue on the basis of documents available before him ex parte. Aggrieved, the assessee is in appeal before the ITAT.

4. The Id. AR submitted that the notices were issued online which might have served in the spam folder of email, therefore it could not be seen by the assessee, however there was no intention to disregard the notices issued by the CIT(Appeals) and he submitted that if a chance is given to the assessee, he undertook to respond to the notices and substantiate the case of the assessee with evidence before the lower authorities.

5. The Id. DR relied on the order of lower authorities and objected to sending back the matter to lower authorities.

6. We noted that the assessee has filed appeal belatedly by 15 days for which the reasons have been explained placed in the appeal set. On going through the same the assessee has explained the reasons for delay of 15 days. Considering the reasons we hereby condoned the delay of 15 days.

7. Considering the rival submissions and prayer of the assessee and in the interest of justice, we remit the issue to the CIT(Appeals) for fresh consideration and decision as per law. The assessee is directed to update its email id, communication address and other details and file necessary documents that would be essential and required for substantiating his case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings and in case of further default, the assessee shall not be entitled to any leniency.

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

Pronounced in the open court on this 22nd day of August, 2024.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 22nd August, 2024.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.