

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
AND SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.1983/Mum/2024
Assessment Year: 2017-18**

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| Yashmun Engineers Limited A-310, 3 rd Floor Chandivali Farm Road, Kanakia Boomerang, Andheri East, Maharashtra-400071. PAN: AAACY 0003 C (Appellant) | Vs. | ACIT, Circle-8(3)(2), Mumbai (Respondent) |
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Present for:

Assessee by : Shri Ronak Doshi & Shri Karan Jain
Revenue by : Shri B. Laxmi Kanth, Sr. DR

Date of Hearing : 11.07.2024
Date of Pronouncement : 28.08.2024

ORDER

PER AMARJIT SINGH, ACCOUNTANT MEMBER:

This appeal of the assessee for the assessment year 2017-18 is directed against the order dated 22.02.2024 passed by the ld. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the ld. CIT(A)']. The assessee has raised the following grounds of appeal:

"1. Ground no. 1: rejecting appellant's books of account u/s 145 and making addition of Rs. 1,51,22,124/- under 'business income' on an adhoc basis applying 8% of gross receipts excluding income from other sources.

1.1 On the facts and in the circumstances of the case and in law, the ld. AO erred in rejecting the appellant's books of account and thereafter making addition of Rs. 1,51,22,124/- under 'business income' on adhoc basis by applying 8% to gross receipts excluding income from other sources as per the audited financial statements.

1.2 The ld. AO failed to appreciate and ought to have considered the financial statements audited under the Companies Act, 2013 and tax audit report made in accordance with the provisions of the Act.

1.3 The ld. AO failed to appreciate that no addition can be made on an adhoc basis and that too without stating any basis for applying a specific percentage of alleged gross receipts.

1.4 The appellant prays that the addition of Rs. 1,51,22,124/- made on adhoc basis be deleted

2. Ground no. 2: Taxing 'other income' of Rs. 1,16,00,254/- as per the audited financial statements under the head 'income from other sources':

2.1 On the facts and in the circumstances of the case and in law, the ld. AO erred in taxing the entire 'other income' as per the audited financial statements under the head 'income from other sources' at Rs. 1,16,00,254/-.

2.2 The appellant prays that income under the head 'income from other sources' amounting to Rs. 6,60,345/- as per return of income be accepted and addition of Rs. 1,09,39,909/- be deleted.

3. Ground no. 3: Interest u/s 234B and 234D of the Act amounting to Rs. 7,84,872/- and Rs. 6,13,387/-:

3.1 On the facts and in the circumstances of the case and in law, the ld. AO erred in levying interest u/s 234B and 234D amounting to Rs. 7,84,872/- and Rs. 6,13,387/- respectively.

3.2 The appellant prays that the ld. AO be directed to delete appropriately reduce the interest u/s 234B and 234D of the Act.”

2. Fact in brief is that return of income declaring loss of Rs. 2,21,98,253/- was filed on 29.10.2017. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 20.08.2018. During the course of assessment, the assessing officer has issued various notices however the assessee has not made any compliance therefore the assessing officer has assessed the total income of the assessee at Rs. 2,67,22,378/- by estimating the income of the assessee @ 8% of the gross receipt excluding the income of the other sources.

3. The assessee filed appeal before the ld. CIT(A). The assessee has not made any compliance to the most of the notices issued by the ld. CIT(A) during the course of appellate proceedings therefore the appeal of the assessee was dismissed.

4. During the course of appellate proceedings before us, the ld. Counsel filed affidavit on 27.06.2024 and submitted that Mr. Vasant Narayan Dixit, Vice-President of the assessee-company who was looking after the tax matter of the of the age of about 80 years expired on 30.08.2019 whose mail ID was given for the purpose of income-tax proceedings as vndixit@yashmunengineers.com. It is further submitted that notice of hearing remained unattended by Mr. Vasant Narayan Dixit owing to his old age and who was ultimately expired on 30.08.2019. He also submitted that the employees who will working under the supervision of Mr. Vasant Dixit had remained negligent in responding to the notices issued in the course of assessment proceedings. After citing all these facts as reported in affidavit, the ld. Counsel submitted that there is bona fide reasons for not making any compliance at the time of assessment proceedings and the appellate proceedings before the ld. CIT(A).

5. Heard both the sides and perused the matter on record. In the case of the assessee, assessing officer has finalized the assessment on ex-parte basis since the assessee had not made any compliance and the ld. CIT(A) has also dismissed the appeal of the assessee on account of not making any compliance at the time of appellate proceedings. As discussed supra in this order, we find that no compliance from the side of the assessee could be made before the assessing officer and before the ld. CIT(A) because of ill-health of the Vice-President of the assessee company who expired on 30.08.2019. We consider that there is bona fide reason due to which the assessee could not make any compliance

before the tax authority below. Therefore, we consider it appropriate to restore the case of the assessee to file of the assessing officer for deciding afresh on merit after providing opportunity to the assessee to make submission in the set aside assessment proceedings. Therefore, the appeal of the assessee is restored to the file of the AO for de novo assessment as directed above. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 28.08.2024.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Mumbai, Dated: 28.08.2024
Biswajit, Sr. P.S.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai