

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

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

**ITA No.3058/MUM/2024
(Assessment Year: 2011-12)**

Sarr Logistic Private Limited

Office No. 218, Atlanta Estate
Near Virwani Industrial Estate,
Goregaon (East) Mumbai - 400063
[PAN: AAMCS6135D]

..... **Appellant**

Vs

**Deputy Commissioner of Income Tax
Circle 13(2)(2)**

Aaykar Bhavan, MK Road,
Mumbai - 400 020

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Sandeep Mehta
For the Respondent/Department : Shri Kishor Dhule

Date

Conclusion of hearing : 08.08.2024
Pronouncement of order : 28 .08.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Assessee has challenged the order dated 05/04/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'] for the Assessment Year 2011-12 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. The Learned Authorised Representative for the Appellant appearing before us submitted that no appeal was filed by the Appellant before the CIT(A) for Assessment Year 2011-12. Therefore, the order passed by CIT(A), dated 05/04/2024, pertains to non-existent appeal and therefore, should be quashed.

3. The Learned Departmental Representative submitted placed reliance on the order passed by the CIT(A) and submitted that the CIT(A) has recorded that relevant details and documents were not available on record while dismissing the appeal.

4. On perusal of the Order impugned, we find that CIT(A) has, in paragraph number 2.2 and 2.3 of the order impugned, recorded as under:

"2.2. At the outset, it is stated that in this case, none of the documents are available with the undersigned. In particular, even the Form 35, the ground of appeal and the Assessing Officer's order appealed against, are not available with the undersigned.

Accordingly, all out efforts were made to call for relevant documents (the Form 35, the ground Appeal and the Assessing Officer's order appealed against) from the old i.e. Pre-faceless CIT(A), NFAC charge as well as from the assessee. However, despite repeated communications sent to both old i.e. Pre-faceless CIT(A), NFAC charge as well as from the assessee, absolutely no response was received from any of these.

2.3 Details of communication sent to old i.e. Pre-faceless CIT(A), NFAC charge.

The old charge was communicated on 10/5/2023, through seek/request information facility provided to faceless appeal ITBA module. However, even on this occasion, no response was received. The same is reproduced as under:

"The Appeal application is found to be deficient on following grounds:

- 1. Appeal fee has not been paid/particulars of payment is not mentioned.*
- 2. Form-35 is incomplete/ no filed properly.*
- 3. Appeal filed beyond time and Application for condonation of delay not filed.*
- 4. Grounds of Appeal have not been appended.*

Please sent the above mentioned documents".

5. The above findings returned by the CIT(A) support the submissions made on behalf of the Appellant that no appeal was filed by the Appellant. Giving the peculiar facts of the present case and to protect the interest of both the sides, the present appeal

preferred by the Appellant is dismissed, leaving open all rights and contention of the Appellant, as no prejudice has been caused to the Appellant, while the Revenue shall have the liberty, to the extent granted under law, to seek rectification the order, dated 05/04/2024, passed by the CIT(A) is case it is subsequently found that the same pertains to an appeal pertaining to a different assessment year.

6. In result, In terms of the paragraph 5 above, the present appeal preferred by the Assessee is dismissed.

Order pronounced on 28.08.2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 28.08.2024
Patil, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai