

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No. 1380/Bang/2024
Assessment Year : 2017-18

M/s. Sri Balaji Steel and Cement, No.2328, 1 st Block, STR M Visvesuvarua Layout, 100 Feet Road, Maruthi Nagae, Bengaluru – 560 056. PAN : ACZFS 2919 K	Vs.	ITO, Ward – 3(2)(3), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Lakshmi S, Advocate
Revenue by	:	Shri. S. T. Seshadri, Addl. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	26.08.2024
Date of Pronouncement	:	27.08.2024

ORDER

Per Prakash Chand Yadav, Judicial Member -

The present appeal of the assessee is arising from the Order of CIT(A) dated 21.05.2024.

2. The facts leading to the filing of this appeal are that the assessee is a partnership firm and engaged in the business of trading of steel and cement. For the year under consideration, assessee company failed to file any Income Tax Return (ITR). Accordingly, the AO issued notice under section 142(1) of the Act dated 24.11.2017 asking the assessee to file the return of income. However, the assessee could not file any reply in pursuance to the said notice. Thereafter, the AO initiated proceedings under section 144 of the Act against the assessee and issued several notices under section 144 of the Act to the assessee. All these notices remained un-complied and hence the AO framed an ex-parte assessment. During assessment, the AO observed that the assessee has deposited cash to the tune of Rs.71,19,395/- after demonetization. The AO further observed that total credits in the bank account of the assessee are taxable

under section 69A of the Act because the assessee has not filed any return of income for the year under consideration. At last, the AO taxed all the credits of Rs.2,05,19,898/- under section 69A of the Act.

3. Aggrieved with the Order of the AO, assessee preferred appeal before the CIT(A) and filed statement of facts and grounds of appeal. However, despite granting several opportunities the assessee, could not appear before the CIT(A) and hence the CIT(A) affirmed the Order of the AO and dismissed the appeal of the assessee.

4. Aggrieved with the Order of CIT(A), assessee preferred appeal before us and raised 12 grounds of appeal out of which ground No.1 is general in nature. In grounds 2 to 7, assessee has challenged the addition of Rs.2,05,19,898/-. In ground No.8, assessee has challenged the invocation of section 115BBE of the Act and in grounds 9 and 10, assessee has challenged the levy of interest as well as initiation of penalty proceedings. So far as ground Nos.9 and 10 are concerned, these are premature grounds and for ground Nos.2 to 8 are interconnected, the Counsel for the assessee at the outset submitted that the matter may kindly be restored to the file of AO for fresh adjudication. The learned Counsel for the assessee has also relied upon the affidavit filed by assessee justifying the reason for non-appearance before the AO. The counsel for the assessee *interalia* contended that after demonetization the assessee business become lull and hence it could not be able to file the ITR, counsel for the assessee submitted that even VAT return for the period post demonetization were filed showing NIL trading.

5. The learned DR relied upon the Orders of the authorities below.

6. After considering the relevant submissions and material on record, we are of the view that in the present case, the assessee could not comply with the notices of the AO as well as of the CIT(A) and hence both these authorities have decided the matter against the assessee ex-parte. Now the learned Counsel for the assessee has undertaken that the assessee will comply with the notices and

co-operate with the Department. Therefore, considering the facts and circumstances of the case, we are of the view that one more opportunity shall be provided to the assessee subject to the deposit of cost of Rs. 5,000/- to be paid by assessee as additional amount, which shall not be considered as discharge of any liability of Income Tax due, for the impugned Assessment Year. The matter is remitted back to the file of AO for fresh adjudication. The assessee is directed to deposit this amount and file the copy of challan with the AO, then the AO will commence the fresh assessment proceedings.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(Laxmi Prasad Sahu)
Accountant Member

Sd/-

(PRAKASH CHAND YADAV)
Judicial Member

Bangalore.

Dated: 27.08.2024.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR,ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.