

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

**Shri Manish Borad, Accountant Member
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 1188/Kol/2024
Assessment Year: 2012-13**

**I.T.A. No. 1189/Kol/2024
Assessment Year: 2013-14**

**M/s Synergy Electric Pvt. Ltd.,
35, Trishul, Rowland Road,
Elgin Road, Kolkata - 700020
[PAN: AARCS8436Q]**

.....Appellant

vs.

**ACIT, Circle-12(2), Kolkata,
Aayakar Bhawan, P-7,
Chowringhee Square,
Kolkata – 700069**

..... Respondent

Appearances by:

Assessee represented by : Shri Miraj D. Shah, A.R.

Department represented by : Shri Abhijit Adhikary, Addl. CIT

Date of concluding the hearing : August 28, 2024

Date of pronouncing the order : August 28, 2024

ORDER

PER BENCH:

Both the captioned appeals filed by the Assessee pertaining to the Assessment Years (in short 'AY') 2012-13 and 2013-14 are directed against the two separate orders passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the National Faceless Appeal Centre (NFAC), Delhi, dated

01.08.2023 and 02.08.2023 arising out of Assessment Order dated 27.11.2019, passed under Section 144 read with section 147 of the Act.

2. The assessee has raised the following grounds of appeal in ITA No. 1188/Kol/2024:

- "1 *That the order passed u/s 250 is bad in law as well as on facts of the case.*
2. *That the Hon'ble Commissioner of Income Tax (A), NFAC erred in law as well as on facts by confirming the additions made by the Ld. Assessing Officer in respect of payments made to M/s Silverpoint Infratech Ltd. of Rs. 45,00,000/- by treating the same as bogus expenditure.*
3. *That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings."*

3. The assessee has raised the following grounds of appeal in ITA No. 1189/Kol/2024:

- "1 *That the order passed u/s 250 is bad in law as well as on facts of the case.*
2. *That the Hon'ble Commissioner of Income Tax (A), NFAC erred in law as well as on facts by confirming the additions made by the Ld. Assessing Officer in respect of payments made to M/s Silverpoint Infratech Ltd. of Rs. 1,29,00,000/- by treating the same as bogus expenditure.*
3. *That the Hon'ble Commissioner of Income Tax (A), NFAC erred in law as well as on facts by confirming the additions made by the Ld. Assessing Officer in respect of prior period item and exceptional items to the tune of Rs. 35,18,607/- by treating the same as not incidental to the business of the year.*
3. *That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings."*

4. At the outset, the Ld. AR stated that the assessee did not get opportunity to properly representation its case before the lower authority below. As a result, the impugned orders were passed ex-parte against the assessee. Therefore, one more opportunity may be given to the assessee so that the assessee can represent its case properly before the lower authority.

In this connection the assessee has submitted an affidavit stating the reasons behind such non-appearance before the authority below which states in the following manner:

"I Cecil Antony holding DIN 00194894, as a director of SYNERGY ELECTRIC PRIVATE LIMITED hereby declare the following:

1. SYNERGY ELECTRIC PRIVATE LIMITED incurred substantial operational losses and financial debts, leading to a significant number of employees leaving the company.

2. Several key personnel from the accounts and taxation department also departed, resulting in the complete collapse of the department and its functions.

3. Due to these circumstances, there was a failure to comply with the assessment proceedings before the assessing officer.

4. Additionally, during the appeal proceedings, notices were mistakenly directed to the spam folder of the company's email, which prevented the company from being aware of these notices and, as a result, no responses or compliances were made.

I affirm that everything stated above is true to the best of my knowledge and belief. Signed, sealed, and declared by the undersigned on 27th August 2024 at Kolkata."

5. We after hearing the arguments of the parties and reviewing the evidence availability on record, we find that there is a valid reasons for the assessee's non-appearance before the authority below. In this scenario, it is necessary to remand the issue back to the Ld. CIT(A) for reconsideration of the issue involved in the appeal. The assessee is also directed to submit necessary documents in support of its claim before the lower authority as and when notices would serve. Consequent to the above, the assessee's both appeals are allowed for statistical purposes.

6. In the result, both the appeals of the assessee are allowed for statistical purposes.

Kolkata, the 28th August, 2024.

Sd/-
[Manish Borad]
Accountant Member

Dated: 28.08.2024.

AK, PS

Sd/-
[Sonjoy Sarma]
Judicial Member

Copy of the order forwarded to:

- 1 M/s Synergy Electric Pvt. Ltd,
- 2.ACIT, Circle-12(2), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches