

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.30/Nag./2024

(Assessment Year : 2014-15)

Miltech Industries Pvt. Ltd.
F-27/1, Hingna Road, MIDC Indl. Area
Nagpur 440 016 PAN – AAACM8953B

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Circle-3, Nagpur

..... Respondent

Assessee by : Shri Rajesh Loya
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 12/09/2024

Date of Order – 18/09/2024

ORDER

The assessee has filed this appeal challenging the impugned order dated 21/11/2022, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

2. In its appeal, the assessee has raised following grounds:-

"(1) That the order of the learned Asstt. Commissioner of Income Tax, Circle 3, Nagpur is bad in law and wrong on facts and the learned CIT(A) erred in confirming the same.

(2) That the learned CIT(A) erred in law and on facts in not considering the written submission filed alongwith supporting evidences and passing ex- parte order. On the facts and circumstances of the case, the action of learned CIT(A) is improper and highly unjustified.

(3) That the learned CIT(A) erred in law and on facts in confirming the action of AO in making addition of Rs.40,80,000/- holding that the share premium received is in excess of the intrinsic value of the shares. On the facts and circumstances of the case, the shares were issued at the price considering the Fair Market Value and the action of both the authorities in not considering the explanation of the assessee is arbitrary and unjustified.

(4) That the learned CIT(A) erred in law and on facts in confirming the action of Assessing Officer in determining and charging interest u/s. 234A and 234B. On the facts and circumstances of the case and in law, the action is improper.

(5) That for any other grounds with kind permission of your honour at the time of hearing of appeal.”

3. When this appeal is taken up for hearing, the learned Counsel for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one more opportunity may be given to the assessee to substantiate its case before the learned CIT(A).

4. On the other hand, the learned D.R. submitted that the learned CIT(A) has given sufficient opportunities inspite of that the assessee has not appeared before the learned CIT(A) and not filed relevant details. He strongly supported the orders passed by the learned CIT(A).

5. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) gave opportunities to the assessee, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one more opportunity should be given to the assessee to substantiate his case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh after providing reasonable opportunity of being heard to the

assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 18/09/2024

NAGPUR, DATED: 18/09/2024

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur