

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:1138/CHNY/2023

निर्धारण वर्ष/Assessment Year:2014-15

Pentamedia Graphics Ltd.,
No.17/7, Thiyagaraya Street,
T. Nagar,
Chennai – 600 017.

The Deputy Commissioner
of Income Tax,
Vs. Non-Corporate Circle – 20(1),
Chennai.

PAN: AAACP 1647B

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. R. Anita, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 18.09.2024

घोषणा की तारीख/Date of Pronouncement

: 20.09.2024

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in Order No. ITBA/NFAC/S/250/2023-24/1055115890(1) dated 14.08.2023. The assessment was framed by the Assistant Commissioner of Income Tax, Non-Corporate Circle-20(1), Chennai for the assessment year 2014-15 u/s. 143(3) of the

Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 31.12.2016.

2. At the outset, the Id.counsel for the assessee stated that the CIT(A) as well as the AO has not allowed proper opportunity of being heard and there is violation of principles of natural justice and for this, the assessee has raised ground Nos.1.1 to 1.3, which read as under:-

“1.1 The CIT(A) went wrong in disposing of the appeal in a summary manner without adverting to the facts of the case and the submissions made before him in the proper perspective.

1.2 The CIT(A) erred in proceedings to dispose of the appeal relying on a remand report submitted by the AO; without making it available to the appellant for comments/rejoinder.

1.3 The CIT(A) erred in disposing of the appeal without giving proper opportunity of being heard and thus the order is violative of the principles of natural justice and the provisions of the Income-Tax Act.

3. The Id.counsel for the assessee stated that the assessee filed petition for admission of additional evidences under Rule 46 of the Income Tax Rules before CIT(A) vide application dated 03.03.2020 in which, the assessee has filed the following evidences:-

- 1) Break-up of “Exceptional Items” written off during this year*
- 2) Break-up of the work in progress and distribution rights that were written off during this A.Y.*
- 3) Memorandum of Adjustment for Income-tax purpose for the year ended 31.03.2014.*

- 4) *Certificate from the Chartered Accountant for the items written off for Work-in-Process*
- 5) *Certificate from the Chartered Accountant for the items written off for Distribution Rights*

The Id.counsel for the assessee stated that there are only two issues on merits i.e., disallowance of inventory of distribution rights written off amounting to Rs.3,50,75,000/- and disallowance of write off of inventory of work in progress amounting to Rs.4,50,25,000/- which need to be adjudicated. The Id.counsel for the assessee also stated that the assessee has filed these evidences and CIT(A) has taken remand report of AO on these evidences and the AO vide his letter dated 28.04.2023 has given his remand report on additional evidences, portion of the same is reproduced in the order of CIT(A) which reads as under:-

"5. In response to the hearing notice, the assessee vide submission dated 21.04.2023 has submitted petition for admission of additional evidence and filed additional evidences in the form of paper book. Certificate issued by the Central Board of Film Certification for the movie Ali Baba & Son of Alladin forms Sl.no1&2. It is seen from the paper book submitted the documents submitted vide SI.No.3, 6- 10 was submitted by the assessee during the course of the assessment proceedings and were considered by the then A.O. while passing the order u/s 143(3). The minutes of meeting of Audit Committee of the Board of Directors of the appellant alongwith intimation for the meeting on 23.5.2014 & 27.06.2015 forms Sl.no 4&5. It is seen from the Minutes of the Meeting of the Board of Directors of Pentamedia Graphics Limited held on 23.05.2014, in page 58 para 11 on writing off of Assets, the resolution states as under:

"RESOLVED THAT a Sum of Rs. 211.47 Crores be written-off in the Books of Accounts of the Company as exceptional items in the Profit & Loss Appropriation Account for the year ended 31st March, 2014"

6. It may be seen from the assessment order u/s 143(3) dated 31. 12.2016, in page No.3, para 3(vi)(a) to 3(vi)(e) the A.O. has stated detailed reasons for disallowance of claim for Inventories "Written Off" of the items totalling Rs.8,01,00, 000/-. Now, during the appellate proceedings the assessee has submitted documentary evidence in support of para 3(vi)(d) of the assessment order. No additional evidences/documentary evidences were provided by the assessee as called for in the Assessment Order u/s 143(3) dated 31.12.2016."

The Id.counsel for the assessee stated that neither the AO nor the CIT(A) has adjudicated these issues nor examined the additional evidences. He also stated that the CIT(A) has not provided copy of remand report for assessee's comments / rejoinder and decided the appeal practically ex-parte. Hence, he requested that matter can be referred back to the AO so that he can examine these evidences and then can decide these issues afresh.

4. When these were confronted to Id. Senior DR, she contested the assessee's claim.

5. After hearing rival contentions and going through the facts of the case and the additional evidences filed by assessee, which were admitted by CIT(A) and AO also given remand report but we noted that from the remand report and the adjudication of CIT(A) that they simply rejected the assessee's claim on generic findings. Hence, we

feel that this issue needs fresh examination by the AO. Hence, we set aside the order of AO and that of the CIT(A) and remand the matter back to the file of the AO to allow assessee to file fresh evidences then decide according to law. Needless to say, the AO will provide reasonable opportunity of being heard to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 20th September, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 20th September, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.