

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**BEFORE SHRI SONJOY SARMA, JUDICIAL MEMBER &
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER &**

**I.T.A. No. 1286/KOL/2024
Assessment Year: 2016-17**

**Lords Bluetech Company Pvt. Ltd.
33A, Chatterjee International Centre,
J.L. Nehru Road, Room No. 4/A, 4th floor,
Kolkata-700 071 , West Bengal
[PAN: AABCL2598N]**

Appellant

VS.

**Asst. Commissioner of Income Tax, Circle 8(1),
Aaykar Bhavan, P-7, Chowringhee Square, Kolkata-700 ,
West Bengal**

Respondent

Appearances by:

Assessee represented by: Shri Somnath Ray Choudhry, AR
Department represented by: Shri Ankur Goyal, DR

Date of concluding the hearing: 19.09.2024
Date of pronouncing the order: 20.09.2024

ORDER

PER SONJOY SARMA, JM:

This appeal at the instance of the assessee is directed against the order of National Faceless Appeal Centre, Delhi [the learned CIT (A)] dated 16.03.2024, which is arising out of the assessment order under Section 144 of the Income-tax Act, 1961 (the Act) dated 14.12.2018.

02. At the outset, the Id. Authorized Representative for the assessee submitted that there is delay of 23 days in filing the appeal before this Tribunal. The reasons for delay as explained by Id. Authorized Representative is that relevant documents were in the custody of the previous consultant and it took time for new consultant to obtain these documents and prepare the appeal memo. Due to this, there was an unavoidable delay of 23 days in filing the appeal. The Id. Authorized Representative requested to condone

the delay emphasizing that the delay is due to genuine and reasonable cause beyond the control of the assessee and no mala fide intention was involved for delay in filing the appeal. The Id. Authorized Representative prayed that the delay being condoned in the interest of justice, so the assessee's case can be heard on merits.

03. We after considering the submissions made by the Id. Authorized Representative and facts placed before us, we are of the view that the delay of 23 days in filing the appeal was due to reasonable cause as explained by the assessee. The delay was due to administrative reasons and there was no deliberate attempt by the assessee to delay in filing the appeal. In the interest of justice and fair play, we hereby condone the delay in filing the appeal. The appeal will now be heard on merits.
04. Brief facts of the case are that the appellant/ assessee company filed its return of income for the assessment year under consideration by declaring total loss of ₹1,24,86,267/-. The case of the assessee was selected for scrutiny under Computer Assisted Scrutiny Selection (CASS), followed by notice issued u/s 143(2) & 142(1) of the Income-tax Act, 1961 (the Act). However, no one appeared on behalf of the assessee before the Id. Assessing Officer. Consequently, the Id. AO passed an *ex-parte order* u/s 144 of the Act on 14th December, 2018, determining the total income of the assessee at ₹1,05,92,370/- after making an addition of ₹2,30,78,637/- on account of undisclosed purchase.
05. Aggrieved by the *ex-parte order*, the assessee filed an appeal before the Id. CIT (A). However, the appeal was dismissed by Id. CIT (A) due to non-prosecution on the part of the assessee.
06. Dissatisfied with the above order, the assessee has filed the present appeal before this Tribunal raising various grounds.
07. During the hearing before us, the Id. Authorized Representative for the assessee submitted that assessee generated with two 15CA forms required

under Income Tax Law, for furnishing information for making foreign remittance to a non-resident. However, the assessee used one form 15CA for ₹2,19,52,800/- and another form 15CA for ₹3,42,60,000/- was not used. It was argued that while one of these amounts pertains to transaction of ₹3,42,60,000/- was not undertaken. The Id. Authorized Representative further stated that the difference related to export purchases was added back, but the freight expenses had already been included in the profit and loss account. Hence, the addition was unwarranted. The Id. Authorized Representative also stated that both the orders passed by the lower authorities are *ex-parte* order and assessee did not have given any adequate opportunity to present the case before the lower authority. Therefore, he requested that the matter may be remand back to the file of Id. CIT (A) for fresh adjudication, so assessee would provide the necessary documents and submissions to canvass its claim.

08. On the other hand, the Id. Departmental Representative vehemently supporting the orders of the lower authorities.
09. We have heard the rival contentions and perused the records available on record. We find that sufficient opportunities were provided to the assessee but it failed to avail those opportunities. Consequently, both the assessment order and the order of Id. CIT (A) were passed *ex-parte*. In the interest of justice, we believe that it is appropriate to remand this matter to the file of the Id. CIT (A) to examine the issue afresh and Id. CIT (A) is directed to provide reasonable opportunity to the assessee to be heard and assessee furnish the necessary supporting documents to substantiate its claim. The assessee is also directed to co-operate with the proceedings and submit the require evidences to support its claim.
010. In view of the above, the appeal of the assessee is allowed for statistical purpose and the matter is remanded back to the file of the Id. CIT (A) for



fresh adjudication. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

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

Kolkata, the 20th September, 2024

Sd/-
[RAKESH MISHRA]
ACCOUNTANT MEMBER

Sd/-
[SONJOY SARMA]
JUDICIAL MEMBER

Dated:20.09.2024.

SS, Sr. PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata