

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.1708/Bang/2024
Assessment year : 2011-12

Adirishab Exports Pvt. Ltd., No.27-1/1/1, Lakkasandra Extn., 2 nd Cross, Nagrajgupta Layout, Bannerghatta Road, Bangalore – 560 030. PAN: AABCA 7071R	Vs.	The Income Tax Officer, Ward 1(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Surajmal Daga, CA
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel.

Date of hearing	:	08.10.2024
Date of Pronouncement	:	18.10.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the ex parte order passed dated 10.5.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2011-12.

2. At the outset, it is noticed that there is a delay of 50 days in filing appeal and in this regard the assessee has filed condonation application which is placed at page 22 of PB stating that the delay was

due to circumstances and public holidays and not intentional which would put assessee's own interest in jeopardy. There was confusion against the determined demand and it took some time to prepare for the appeal. Reliance is placed on the Hon'ble Apex Court decision in the case of Collector, Land Acquisition v. MST Katiji (167 ITR 471) and other decisions and condonation of delay is requested. After hearing both the parties, it is observed that there are sufficient reasons for the delay and following the judgment of the Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471, delay in filing the appeal before the Tribunal is condoned.

3. Briefly stated the facts of the case are that the case was reopened after issuing notice u/s. 148. Originally the assessee filed return electronically on 12.09.2021 declaring total income of Rs.37,590. It was observed that as per Form 26AS under the head 'statement of transaction' TDS of Rs.69,04,534 was reported under gross receipts. However as per the return filed the gross receipts was shown at Rs.29,22,033. In this regard show cause notice and various other notices were issued, but the assessee did not respond any of the notices. Accordingly the difference of gross receipts was treated as unexplained receipts u/s. 68 of the Act and added back to the total income. Aggrieved from the above order, the assessee filed appeal before the First Appellate Authority (FAA).

4. During the appellate proceedings, the assessee could submit only copy of VAT order and VAT return, but could not explain the difference as observed by the AO in the reassessment proceedings. Accordingly the Id. FAA confirmed the order of the AO. Aggrieved, the assessee is in appeal before the ITAT.

5. The Id. AR reiterated the statement of facts which is placed at page 5-6 of PB for not responding to the notices issued by the AO and the AO wrongly invoked section 68 on the basis of data available in Form 26AS and passed the order. He also submitted that the submissions made by the assessee during the appellate proceedings was not properly appreciated. The assessee is a company and filing return with MCA portal where turnover and profit have been disclosed. He requested that if a chance is given to the assessee to explain the difference in gross receipts, he undertook to respond to the notices and substantiate the case of the assessee with evidence before the lower authorities.

6. The Id. DR relied on the order of lower authorities and submitted that various chances were given to the assessee and it is clear from the assessment order that assessee has two PAN and in the appellate proceedings only VAT return and VAT order could be filed, but assessee was unable to explain the reason for the difference.

7. Considering the rival submissions, we note that the AO has made addition in the reassessment proceedings only on the basis of data available in Form 26AS under the head 'gross receipts' and made

addition u/s. 68 on the difference in the return and Form 26AS. However, during the reassessment proceedings there was no response from the assessee's side to the notices issued. As submitted by the assessee, we note that Id. FAA has also not appreciated the documents furnished by the assessee. Considering the prayer of the assessee and in the interest of justice, we remit the issue to the Assessing Officer for fresh consideration and decision as per law. The assessee is directed to file necessary documents that would be essential and required for substantiating his case and for proper adjudication by the revenue authorities. Needless to say that reasonable opportunity of being heard be given to the assessee. The assessee is directed to cooperate with the proceedings and in case of further default, the assessee shall not be entitled to any leniency.

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

Pronounced in the open court on this 18th day of October, 2024.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 18th October, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.