

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, AM AND  
MS. KAVITHA RAJAGOPAL, JM

ITA No. 3783/Mum/2024  
(Assessment Year: 2021-22)

Roshan Tin Printers Private Limited 501, Building No. 315, Om Gayatri CHS, Ram Narayan Narkar Marg, Ghatlopar (E), Mumbai-400 705	Vs.	DCIT-13(3)(2) Mumbai
PAN/GIR No. AAACR 669 N		
(Assessee)	:	(Respondent)
Assessee by	:	None
Respondent by	:	Smt. Mahita Nair
Date of Hearing	:	12.09.2024
Date of Pronouncement	:	29.10.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2021-22.

2. The assessee has raised the following grounds of appeal:

**The ex-parte order dated 29.05.2024 passed by the CIT(A) is unjustified**

1. The Ld.CIT(A) has erred in passing the ex-parte order dated 29.05.2024 and dismissing the appeal of the Assessee. During the period when the notices were issued by the CIT(A), there was change in tax professional. Thus, it took some time for collecting the details and documents from the earlier tax consultant and forwarding the same to the new Chartered Accountant. Thus, in the meantime whatever notices were issued remained unattended. Hence, it is requested that the ex-parte order passed by the CIT(A) may be set aside and the Assessee may be granted an opportunity to file the submissions.

**The addition of Rs.17,49,471/- made in the intimation under section 143(1) of the Act amounts to double taxation.**

2. *The CIT(A) has erred in confirming the addition of Rs.14,66,773/- under section 43B of the Act on account of non-payment of TDS on salary before filing the return of income u/s 139(1) of the Act without appreciating that the Appellant has already disallowed a sum of Rs. 14,66,773/- u/s 40(a)(ia) of the Act while filing the return of income, Thus, the addition made by the CPC amounts to double taxation and the same may be deleted.*

3. *The CIT(A) has erred in confirming the addition of Rs.82,397/- under section 43B of the Act on account of non-payment of TDS on contract before filing the return of income u/s 139(1) of the Act without appreciating that the Appellant has already disallowed a sum of Rs.82,397/- u/s 40(a)(ia) of the Act while filing the return of income. Thus, the addition made by the CPC amounts to double taxation and the same may be deleted.*

4. *The CIT(A) has erred in confirming the addition of Rs.2,00,302/- under section 43B of the Act on account of non-payment of TCS on the amount received on sale of goods before filing the return of income w/s 139(1) of the Act without appreciating that the TCS payable is not disallowable under section 43B of the Act. Thus, the CPC is not justified in making disallowance u/s 43B of the Act and the same may be deleted.*

5. *The Appellant denied the liability of interest levied under section 234A of Rs.43,045/-, 234B of Rs.1,72,180/- and 234C of 43,475/- of the Act.*

3. As there was no representation on behalf of the assessee, we hereby dispose of this appeal by hearing the learned Departmental Representative ('ld.DR' for short) and on perusal of the materials available on record.

4. The brief facts are that the assessee had filed its return of income for the year under consideration dated 15.03.2022, declaring total income at Rs.65,08,609/- and the same was processed u/s. 143(1) of the Act where the CPC/learned Assessing Officer (ld. A.O. for short) vide intimation dated 13.11.2022 made an addition/adjustment amounting to RS.17,49,472/- as being the amount inconsistent with that debited to P & L account of previous year but allowable u/s. 43B of the Act as claimed by the assessee in its return and the audit report

5. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.

6. The Id. CIT(A) vide an *ex parte* order dated 29.05.2024, upheld the addition made by the CPC/Id.A.O. on account of non-payment of TDS on salary before filing of return of income u/s. 139(1) of the Act, amounting to Rs.14,66,773/- u/s. 43B of the Act and addition of Rs.82,397/-, Rs.2,00,302/- u/s. 43B of the Act on account of non-payment of TDS on contract and TCS on the amount received on sale of goods, for the reason that the assessee has failed to comply with the notices and has not furnished any documentary evidences in support of its claim.
7. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).
8. We have heard the learned Departmental Representative (Id. DR for short) and perused the materials available on record. It is observed that the assessee has challenged the additions made by the Id. A.O. before the first appellate authority but has been non compliant throughout the appellate proceeding.
9. The learned Departmental Representative ('Id.DR' for short) vehemently opposed to setting aside the issue to the file of the Id. CIT(A) for the reason that the assessee was given several opportunity by the Id. CIT(A) which was not availed by the assessee.
10. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present its case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the Id. CIT(A) for *de novo* adjudication. The assessee is directed

to comply with the proceedings without any undue delay on its side and needless it is to say that sufficient opportunity of hearing is to be given to the assessee.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 29.10.2024*

Sd/-

Sd/-

(Om Prakash Kant)  
Accountant Member

(Kavitha Rajagopal)  
Judicial Member

Mumbai; Dated : 29.10.2024

Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai